# CITY ADMINISTRATION COMMITTEE AGENDA

**Date:** Wednesday, January 25, 2023  
**Time:** 6:00 P.M.  
**Location:** City Hall, 108 E. Green Street 3rd Floor, Council Chambers  
**Watch Online:** [https://www.youtube.com/@CityofIthacaPublicMeetings](https://www.youtube.com/@CityofIthacaPublicMeetings)

<table>
<thead>
<tr>
<th>ITEM</th>
<th>Voting Item?</th>
<th>Presenter(s)</th>
<th>Time Allotted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Call to Order</td>
<td>No</td>
<td>Chair, Robert Cantelmo</td>
<td>5 Min</td>
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<tr>
<td>1.1 Agenda Review</td>
<td>Yes</td>
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<tr>
<td>1.2 Review and Approval of Minutes</td>
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<tr>
<td>December 21, 2022, minutes</td>
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<td>1.3 Open Public Forum</td>
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<td>2.1 Statements from the Public</td>
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<td>The public can provide short statements during this portion of the meeting. 3 minutes is the maximum time allotted, but the chair reserves the right to modify the amount of time per individual at the start of the meeting. Only the first hour of the meeting is set aside for Public Comment.</td>
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<td><em>Written comments submitted will be compiled and entered into the record.</em></td>
<td>No</td>
<td>*Submit written comments here: <a href="https://j.mp/2XUYUdw">https://j.mp/2XUYUdw</a></td>
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<td>2.2 Committee Member Response</td>
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<td>3. Consent Agenda</td>
<td>No</td>
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<td>No Consent Agenda Items submitted this month.</td>
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<td>4. Administration, Human Resources, &amp; Policy</td>
<td>Yes</td>
<td>V Kessler/M Thorne</td>
<td>15 Min</td>
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<td>4.1 Attorney – Approve Amended and Restated Dev. and Maint. Agreement with City Harbor</td>
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<td>4.2 IAWWTF – Approval of Plant to Plant Agreement and Multijurisdictional Agreement</td>
<td>Yes</td>
<td>C Brock, Alderperson</td>
<td>10 Min</td>
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<tr>
<td>4.3 Human Resources Monthly Report</td>
<td>No</td>
<td>R Cantelmo, Chair</td>
<td>10 Min</td>
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<td>5. Finance, Budget, &amp; Appropriations</td>
<td>Yes</td>
<td>M Thorne, Supt. of PW</td>
<td>10 Min</td>
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<tr>
<td>5.1 DPW – Amendment to Personnel Roster</td>
<td>Yes</td>
<td>R Covert, Acting Fire Chief</td>
<td>5 Min</td>
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<td>5.2 Fire Dept – Approval of Grant and Budget Amendment</td>
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<td>5.3 IAWWTF – Approval of Boiler Replacement Contract</td>
<td>Yes</td>
<td>C Brock, Alderperson</td>
<td>10 Min</td>
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<tr>
<td>5.4 Finance Chamberlain- Amendment to Personnel Roster</td>
<td>Yes</td>
<td>J Wright, City Chamberlain</td>
<td>10 Min</td>
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<tr>
<td>5.5 Hector Street over Linderman Creek Culvert Rehabilitation</td>
<td>Yes</td>
<td>J Licitra, Sidewalk Program Mgr</td>
<td>5 Min</td>
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<tr>
<td>6. City Manager Transition</td>
<td>No</td>
<td>D Mohlenhoff, Chief of Staff</td>
<td>30 Min</td>
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<td>6.1 Update and Workplan Review</td>
<td>No</td>
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<td>7. Other Business</td>
<td>Yes</td>
<td>R Fell-DeWalt, Bldgs &amp; Codes</td>
<td>10 Min</td>
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<td>7.1 Approve Amendments to the Ithaca Energy Code Supplement</td>
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<td>8. Meeting Wrap-Up</td>
<td>No</td>
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<td>8.1 Announcements</td>
<td>No</td>
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<td>5 Min</td>
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<tr>
<td>8.2 Next Meeting Date: February 22, 2023</td>
<td>No</td>
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<tr>
<td>8.3 Review Agenda Items for Next Meeting</td>
<td>No</td>
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<td>8.4 Adjourn</td>
<td>Yes</td>
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**Meeting Length Estimate:** 155 Min
4.1 A Resolution to Approve an Amended and Restated Development and Maintenance Agreement Between the City of Ithaca and City Harbor, LLC

WHEREAS, City Harbor, LLC ("City Harbor") is the owner of certain real property located at 101 Pier Road (the "Property") within the City of Ithaca, and

WHEREAS, City Harbor is in the process of developing the Property into a mixed-use residential project, and

WHEREAS, a Development and Maintenance Agreement between the City of Ithaca and City Harbor was executed on May 28, 2021 ("2021 Agreement") which, among other things, obligated City Harbor to convey certain easements, obtain certain approvals, and to construct and maintain certain improvements at its own expense for the benefit of the public such as street improvements, pedestrian walks, and improvements relating to the Newman Municipal Golf Course, and

WHEREAS, since the approval of the 2021 Agreement, City Harbor has met various obligations set forth therein, including by recording certain easements, incorporating design requirements and staff approvals, and obtaining site plan approval from the City's Planning and Development Board reflected in resolutions dated August 25, 2022 and October 25, 2022, and

WHEREAS, the City of Ithaca and City Harbor wish to amend and restate the 2021 Agreement for the purpose of reflecting these and other completed items, clarifying the outstanding obligations of the parties, incorporating the most up-to-date drawings and plans, and setting forth a prospective timeline and workplan for completion of the improvements, now, therefore, be it

RESOLVED, that the Common Council does hereby approve the execution of an Amended and Restated Redevelopment Agreement Between the City of Ithaca and City Harbor, LLC, regarding development of the Property and City Harbor’s construction and maintenance of related improvements, and be it further

RESOLVED, that the Mayor of the City of Ithaca, subject to review by the City Attorney, is hereby authorized to execute the above referenced agreement in a form substantially in conformance with the draft attached hereto.
MEMORANDUM

To: City Administration Committee
From: Victor Kessler, Assistant City Attorney
Date: January 18, 2023
Re: Amended and Restated Development and Maintenance Agreement between the City of Ithaca and City Harbor, LLC

Dear members of the City Administration Committee,

Please find accompanying this memorandum a proposed Amended and Restated Development and Maintenance Agreement between the City of Ithaca and City Harbor, LLC (“Amended DA”), along with a copy of the 2021 agreement that it updates, and a redline comparing the two.

As members of the Committee may be aware, City Harbor, LLC is in the process of developing a mixed-use residential project located at 101 Pier Road (the “Development”). The Development received site plan approval in late 2022. The purpose of the Amended DA is to update the original 2021 agreement, reflecting obligations that have already been met, incorporating the latest design drawings and feedback from City staff, and making certain technical amendments, while preserving all benefits to the City negotiated in the prior 2021 agreement. The proposed Amended DA has been reviewed and approved by the City Attorney’s Office, the Department of Public Works, and the Department of Planning and Economic Development.

As reflected in the redline, the proposed changes include:
• Clarifying the scope of improvements to the Newman Golf Course
• Clarifying the timing of certain work, with the goal of minimizing potential interference with golf course operations and ensuring timely completion of street improvements
• Clarifying the scope of City Harbor’s obligations to maintain certain portions of City-owned property for a 50-year timeframe
• City Harbor to dedicate two parcels of land to City in reconstructed Pier Road in lieu of granting easements over the same
• Clarifying emergency access to Development over Harbor Lane
• Incorporating the most up-to-date drawings and reflecting completed items

Please feel free to reach out if you should have any questions. Staff will also be available to address any issues as you deliberate.
AMENDED AND RESTATED DEVELOPMENT AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF ITHACA AND CITY HARBOR, LLC

THIS AMENDED AND RESTATED DEVELOPMENT AND OPERATING AGREEMENT (this “Agreement”) is made as of the ___ day of _________ 2023 (the “Effective Date”), between the CITY OF ITHACA (“City”) and CITY HARBOR, LLC (“City Harbor”).

WHEREAS,

a. City Harbor is the owner of property located at 101 Pier Road, City of Ithaca (the “City Harbor Property”) and intends to redevelop the City Harbor Property into a mixed-use residential project in accordance with the site plan (the “Site Plan”) approved by the City of Ithaca Planning Board by resolutions dated August 25, 2022 and October 25, 2022 (the “Redevelopment Project”);

b. City Harbor has proposed certain improvements to City-owned land (the “City land”) as a part of the Redevelopment Project, and the City is supportive of such improvements;

c. Pursuant to the approved Site Plan for the Redevelopment Project, City Harbor will relocate Pier Road, construct street improvements, pedestrian walks, tree plantings, storm sewer structures, site lighting, relocate the Newman Golf Course parking lot, golf cart parking, tee boxes, and trees, and install netting near the 9th Green (collectively “Pier Road Improvements”) on a portion of City land as shown on the Exhibit A to this Agreement and any subsequent amendments thereto, and uphold all other obligations under this Agreement, including without limitation the maintenance of certain Pier Road Improvements as set forth in Paragraph 9 and depicted on Exhibit A;

d. The City owns the lands of Pier Road and Newman Golf Course and has agreed to allow physical improvements to be completed on, along and adjacent to Pier Road and Newman Golf Course to facilitate the Redevelopment Project as described herein and subject to the terms and conditions of this Agreement; and

e. In consideration of the mutual covenants and agreements in connection with the Redevelopment Project, the Parties agree to the terms and conditions set forth herein.

NOW THEREFORE IT IS HEREBY AGREED THAT:

Term

1. This Agreement shall be for a term of fifty (50) years commencing on the date upon which all
of the following conditions have been fulfilled (the “Conditions Precedent”):

a. Site Plan approval.

b. Receipt of Notice of Award of satisfactory Tax Abatements from Tompkins County Industrial Development Agency for the Redevelopment Project, and closing on all construction financing and financial assistance necessary for construction of the Redevelopment Project.

c. Filing in the Tompkins County Clerk’s Office of a permanent easement to the City for certain street improvements constructed upon lands of City Harbor (the “Street Improvements Easement”).

d. Filing in the Tompkins County Clerk’s Office of a deed to the City conveying certain street improvements constructed upon lands of City Harbor (the “Pier Road Deed”).

e. Filing in the Tompkins County Clerk’s Office of a permanent public access easement to the City for a publicly accessible pedestrian promenade (“Promenade”) along the waterfront of Cascadilla Creek and Cayuga Inlet on lands of City Harbor (the “Promenade Easement”).

f. The City issuance of a street permit to City Harbor for the purposes of constructing the Redevelopment Project and Pier Road Improvements.

g. Completion of the Pier Road Improvements.

2. In the event that any of the conditions stated in Paragraph 1 have not been fulfilled within three years from the Effective Date, this Agreement shall terminate.

3. Upon termination, City Harbor shall be relieved of further responsibility for construction, maintenance, or repair of the Pier Road Improvements, and shall have no rights to the same as distinct from members of the public. In the event City Harbor commences work on the Pier Road Improvements but is unable to complete the approved improvements as set forth in this Agreement, unless otherwise accepted by the City, City Harbor agrees to restore Pier Road and its associated City owned facilities and improvements to their original condition or better. If City Harbor fails to complete such restoration within a reasonable time, the City may, but shall not be obligated to, complete said restoration upon no fewer than 30 days written notice to City Harbor, with the full costs of such restoration to be borne by City Harbor.

CITY HARBOR OBLIGATIONS

4. The Site Plan approved by the City of Ithaca Planning Board includes the City requirements for the Redevelopment Project, the Pier Road Improvements, and the Promenade. City Harbor agrees to construct the Redevelopment Project, Pier Road Improvements and Promenade in accordance with the approved Site Plan and subsequently approved amendments thereto, if any. A proposed final design for the portion of the Pier Road Improvements relating to the Newman Golf Course (“Newman Improvements”) is set forth on Exhibit A. The staging, site disturbance, or other such preparatory work for the Redevelopment Project may commence with the consent of the Director of Planning and Development or their designee and upon the issuance of an appropriate permit prior to the issuance of the building permit.

5. City Harbor will perform the improvements to the Newman Golf Course in a manner that will not unreasonably interfere with the use the golf course. Construction of the Pier Road Improvements shall take place as indicated in the Site Phasing Plan dated November 11, 2022, attached as Exhibit B hereto, which provides, inter alia, as follows:

- Phase 1 (March 2023-October 2024)
  - Completion of tees and Newman parking lot by June 2023
  - Installation of permanent netting on 9th Green
- Construction of temporary drive near 9th Green
- Construction of site entrances

**Phase 2 (November 2024 – February 2025)**
- Pavement of portion of Pier Road and City Harbor parking lot
- Relocation of site entrance #1

**Phase 3 (March 2025-June 2025)**
- Pavement of Pier Road Turnaround
- Pavement of remainder of Pier Road

Moreover, City Harbor will either (a) perform the Newman Improvements at a time when the golf course is closed for the season, or (b) in the event that performing the Newman Improvements when the golf course is closed is not feasible, consult with the Director of Planning and Development and Superintendent of Public Works or their designees to develop and implement a plan—subject to approval by the City, which approval shall not be unreasonably withheld—for minimizing disruption to golf course operations and visitors, including by maintaining access to and adequate parking for the golf course during construction. In the event that the timeline established in the Site Phasing Plan cannot be adhered to, City Harbor shall consult with the Director of Planning and Development and Superintendent of Public Works or their designees to establish a revised timeline, subject to the approval of the Director of Planning and Development or their designee.

6. City Harbor conveyed the Promenade Easement to the City of Ithaca by Promenade Easement Agreement dated February 22, 2022 and recorded in the office of the Tompkins County Clerk on February 23, 2022 as Instrument Number 2022-01876. The Promenade may be used by the public at any time as detailed in the Promenade Easement permitting year round access by the public.

7. The construction of the Pier Road Improvements, including relocation of any underground utility lines, shall be the sole responsibility of City Harbor and subject to City specifications and applicable permits.

8. With respect to any portions of utilities or fixtures installed within City land that are placed adjacent to or cross the Ithaca Area Wastewater Treatment Facility (IAWWTF) outfall pipe (“Outfall”), running from the northern shore of Cascadilla Creek through the City Harbor parcel pursuant to an “Easement for Outfall Pipe Facilities” recorded in Liber 595, Page 509 with the Tompkins County Clerk on July 14, 1983, as amended by instruments recorded with the Tompkins County Clerk in Liber 608, Page 598, and as Instrument Number 2021-06377 and continuing through City land immediately to the north of the City Harbor Property, such subsurface utilities, lines and pipes installed within City land, and crossing the Outfall pipe in a location where no sheet piles exist, must be encased in steel casing sleeves. Where sheet piles exist, the steel casing sleeves must extend from the sewage outfall pipe centerline to four feet beyond the sheet pile on either side of the sewage outfall pipe. In carrying out such purposes and obligations under this Agreement, City Harbor and its successors and assigns shall not interfere with the construction, operation, maintenance, repair, or replacement of the Outfall or any other City facilities or improvements, or cause injury or damage to the Outfall or any such City facilities or improvements.

9. Maintenance of the Pier Road Improvements by City Harbor shall include the following:
   a. Except as provided below with respect to the Newman Improvements, City Harbor
will maintain at its own expense the Pier Road Improvements approved in the Site Plan in a safe, sound, clean and serviceable condition, in accordance with all applicable ordinances of the City, such that no hazard is posed to the public from the public's use of or proximity to the same, and will repair damage and defects in such improvements, as provided in this Agreement.

b. City Harbor will provide custodial and landscaping services to maintain the appearance of the improvements, including trash removal and routine care of vegetation within the improved areas delineated on the Site Plan and in accordance with the City's exterior property maintenance ordinance.

c. City Harbor will plow the street and sidewalks clear of snow within the improved areas delineated on the Site Plan to the City's reasonable standard and in compliance with the City's exterior property maintenance ordinance, or will contract for the same.

d. City Harbor will maintain and clean all storm sewer facilities installed and provide an easement to the City for access to stormwater lines installed on City Harbor property. In addition to storm sewer facilities installed on the City Harbor Property, City Harbor shall also be responsible for maintaining and cleaning storm sewer facilities installed within the as-built and relocated Pier Road right of way extending to the east of the connection to storm sewer lines serving and installed within the Newman Golf Course parking lot.

e. City Harbor shall not be responsible for maintaining City land beyond the limits delineated on the Site Plan, except that City Harbor shall maintain Pier Road, including the Pier Road turnaround, up to the Willow Avenue intersection.

f. Following its construction, City Harbor shall not be responsible for maintaining any portion of the Newman Golf Course or the improvements made thereto by City Harbor, but shall remain responsible for maintaining the netting noted on Exhibit A.

g. City Harbor will not have a duty to repair damages and defects caused by the City’s use of the City lands. For purposes of this clause, the public’s use shall not constitute the City’s use.

h. The foregoing does not convey any rights to the City land upon which the Pier Road Improvements sit. Any proposed alterations or work within City lands or the right of way must be approved prior to commencement of the work through a street permit or other formal City authorization and be performed in accordance with the Superintendent of Public Work’s specifications.

10. The design of the Pier Road Improvements as set forth in the Site Plan have been approved by the Superintendent of Public Works to assure that City emergency and maintenance vehicles have access to City lands and utilities.

11. City Harbor shall obtain at its expense a survey of the completed Pier Road Improvements to show the as-constructed location of the street, sidewalks and tree plantings and the lines delineating the property which is under City Harbor obligations and that which is under City obligations.

12. City Harbor will convey the two parcels of City Harbor Property shown as Parcel 1 and Parcel 2 on the attached Exhibit C prior to the time of completion of the Pier Road Improvements. Said parcels shall be maintained by City Harbor pursuant to paragraph 9 of this Agreement both before and after the conveyance.

13. City Harbor will convey to the City an easement for emergency access by police, fire, medical, and other emergency responders over and across the portion of City Harbor property
designated as “Harbor Lane” on Exhibit A.

**City Obligations**

14. The City will remain the owner of record for Pier Road. In the unlikely event that Pier Road is classified by Tompkins County as taxable, any amounts due for taxes or assessments shall be paid by the City.

15. Upon acceptance by the Superintendent of Public Works, the City shall be responsible for the storm sewer mains and catch basins installed within the outfall easement area, as authorized and installed pursuant to the Amendment to the Easement for Outfall Pipe Facilities, dated May 27, 2021 between City Harbor, LLC and the municipal owners and recorded with the Tompkins County Clerk on June 9, 2021 as Instrument Number 2021-06377, and the associated storm sewer lines continuing and serving the southern-most portion of the golf course and golf course parking lot.

16. The City will be responsible for the maintenance of the Newman Golf Course and once constructed, the improvements made to the Newman Golf Course by City Harbor pursuant to this Agreement and all trees or other vegetation outside the limits of the Pier Road Improvements shown on the Site Plan, except for the netting which shall be maintained by City Harbor as provided by paragraph 9 of this Agreement and indicated on Exhibit A.

17. City Harbor shall install Pier Road lighting in accordance with specifications provided by the Site Plan. Upon acceptance and approval by the City of the installation of the lighting, the City shall maintain and pay the cost of electric service for any existing or future lighting adjoining the Club House and Pier Road.

18. The City will provide timely notice to City Harbor of any damage or defects to the Pier Road Improvements. City Harbor further agrees to repair or remove any such damage or defect, as directed by the City except for damage or defect caused by the City. In the event of City Harbor's failure to effect such repair or removal, after notice from City to do so, the City may carry out the same and charge City Harbor for such cost.

19. The City shall be the sole owner of the improvements, and may in its sole discretion alter, remove, or destroy the improvements, at its own expense. If the City alters the improvements, City Harbor obligations under this Agreement shall continue to such extent as those obligations are substantially similar in substance and scope to the obligations herein agreed, provided that the public use of the street and walks continues to be solely for vehicular and pedestrian access, respectively. The City shall provide City Harbor with notice at least ninety (90) days prior to substantially and intentionally altering, removing or destroying the improvements, permitting City Harbor to provide comment on such plans.

20. Notwithstanding the foregoing paragraph, the City may not during the term of this Agreement alter, remove or destroy the location of Pier Road as set forth on the site Plan, including the Pier Road Turnaround or impede vehicular and pedestrian access to use of the Pier Road and the Pier Road Turnaround. Except for damage incidental to fire or rescue efforts to the City Harbor Property, any damage to the Pier Road Turnaround caused by the City shall be promptly repaired at the City's expense.

21. Except in the case of emergencies, the City will give notice to City Harbor and, as feasible, the residents of the Redevelopment Project of any substantial closures, repairs, and maintenance that it plans to perform in the vicinity of the Redevelopment Project.

22. The City shall diligently and in good faith pursue the Street Permit process for the Pier Road Improvements delineated in the Site Plan and on Exhibit A. The City shall retain discretion to
approve or deny any Street Permit application in connection with the Redevelopment Project, but approvals shall not be unreasonably withheld and any denial shall not preclude City Harbor from amending an application or re-applying for a Street Permit to address any deficiencies identified with a denied application.

23. Notwithstanding any other provisions herein, the Agreement contained herein may be revoked or modified by the City (a) upon such notice as is practical, in the event of an emergency that threatens property or the public safety or welfare, or (b) upon at least one month’s notice that the Superintendent of Public Works has determined that City Harbor has failed to materially comply with any substantive term herein, and that City Harbor has not cured such breach within the notice period. No such failure to cure shall be deemed to exist if City Harbor has commenced to cure such breach within such period and provided that such efforts are prosecuted to completion with reasonable diligence.

Indemnification, Liability, and Insurance

24. City Harbor shall defend, indemnify, and hold harmless the City from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney’s and experts’ fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, or contamination of or adverse effects on the environment caused by the acts or omissions of City Harbor sustained on the City land in the construction of the Pier Road Improvements and in the performance of the City Harbor maintenance obligations hereunder which affect the City land unless caused by or arising from defects in the City land or Pier Road Improvements that are (a) caused by any negligence or willful misconduct on the part of the City, or (b) as to which the City received prior written notice, as defined in Section C-107 of the City of Ithaca Charter, but then failed to so inform City Harbor within one week of receipt thereof.

25. Notwithstanding any other provision in this Agreement, with respect to the portions of the Pier Road Improvements that require protection of the Outfall, as described in paragraph 8 above, or that are installed above the Outfall, City Harbor agrees to fully defend, indemnify and hold harmless the City of Ithaca, Town of Ithaca, Town of Dryden, Special Joint Committee and their respective elected officials, public officers, Boards, employees, members and agents (collectively, the “Municipal Indemnified Parties”) from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney’s and experts’ fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, contamination of or adverse effects on the environment, or IAWWTF SPDES permit violations, caused by the acts or omissions of City Harbor or its employees, agents or subcontractors, in connection with this Agreement. This indemnification shall not extend to the proportion of damages, losses and claims caused by a reckless or intentional wrongful act of the Municipal Indemnified Parties or, where City Harbor is not in breach of this Agreement and no emergency situation exists, by the Municipal Indemnified Parties’ negligence.

26. The City shall defend, indemnify, and hold harmless City Harbor from any claims, damages, costs and expenses arising out of defects in the City land to the extent caused by negligence or willful misconduct of the City or which arise on City land not subject to the Pier Road Improvements.

27. When City Harbor and the City have both contributed to liabilities incurred by the Parties, each
will indemnify the other in proportion to its respective responsibility for the act or omission that
gave rise to such liability.

28. Notwithstanding any other provision of this Agreement, in no event shall the City be required
to defend, hold harmless, or indemnify City Harbor or any other party from suits, actions,
damages, liability, or expense which, had it been asserted against the City directly, would not
have necessitated the City either to defend on the merits or to incur the resulting liability under
applicable law.

29. At all times that the Agreement is in effect, including during construction of the Pier Road
Improvements, Each party shall provide proof of commercial general liability coverage in the
amount of $1,000,000 per occurrence, $2,000,000 in the aggregate, and umbrella coverage
of $5,000,000, which amounts may be increased every five (5) years for cost of living
adjustments in accordance with commercially reasonable insurance practices at least every
ten (10 ) years. Each party shall cause its insurance policy to name the other party as an
additional insured with respect to the coverages required herein and contractual liability. City
Harbor shall also provide proof of compliance with statutory Worker's Compensation and
Disability coverage requirements.

30. Notwithstanding any other provision in this Agreement, with respect to the portions of
the Pier Road Improvements that require protection of the Outfall, as described in
paragraph 8 above, City Harbor shall maintain and provide proof of insurance in the
same amounts required by paragraph 29 above and naming the Municipal Indemnified
Parties as additional insured.

Miscellaneous

31. The City may add any reasonable fees, reimbursements, penalties or other amounts City
Harbor owes the City by virtue of City Harbor' obligations and responsibilities under this
Agreement, which have been billed by the City to City Harbor and remain unpaid, to the tax
bill of the City Harbor Property.

32. Except as otherwise set forth in this Agreement, the Parties shall bear their own costs and
expenses, including engineering fees, legal accounting, insurance, and fees incurred in
connection with the negotiation and preparation of this Agreement and any subsequent
exercising of rights or performance of obligations set forth in this Agreement. In the event that
a party is determined by a court of competent jurisdiction to be in material breach of any of
the substantive terms of this Agreement, the party found to be in breach shall be liable for the
costs and reasonable attorneys' fees of the party that asserted and prevailed upon such claim.

33. The maintenance and any other use by City Harbor of the City land does not constitute and
shall never ripen into or become a right to use any portion of such property without the consent
of the City.

34. This Agreement supersedes all prior Agreements, understandings, and communications
between the Parties, whether oral or in writing, concerning the subject matter of this
Agreement. This Agreement may not be modified or amended except by a writing signed by
all Parties. The waiver by a party of its rights under this Agreement or of a breach by any other
party shall not constitute a waiver of any other rights under this Agreement or of any future
breaches by any party.

35. If any part, paragraph, or portion of this Agreement is held to be void, invalid, inoperative, or
unenforceable for any reason, such provision shall be deemed severed and the remainder of
this Agreement shall not be impacted and shall continue in full force and effect, unless to do
so would fundamentally contravene the present valid and legal intent and purpose of the
Parties. The Parties agree that each and every provision that is deemed by a court of competent jurisdiction to have been required by law to be included in this Agreement shall be deemed to be inserted herein and shall have the same force and effect as if it were actually inserted.

36. This Agreement may not be assigned by either party without the express written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, City Harbor may assign this Agreement to any entity which becomes the owner of the City Harbor Property or a portion thereof for the purpose of developing and owning any portion of the City Harbor Property or to any lender providing financing which is secured by a mortgage on any portion of the City Harbor Property. Except for the provisions related to the IAWWTF Outfall, this Agreement is not intended to benefit any third-party, and no person or entity who is not a party shall be entitled to enforce any of the rights, interests, or obligations of a party to this Agreement.

37. This Agreement shall be governed by the laws of the State of New York. Any action or proceeding relating to this Agreement shall be venued in a court of competent jurisdiction that is located in the County of Tompkins.

38. All notices required by this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, personal delivery, or facsimile at the following addresses:

To City:
   Mayor
   City of Ithaca
   108 East Green Street
   Ithaca, New York 14850

   City Attorney
   City of Ithaca
   108 East Green Street
   Ithaca, New York 14850

To City Harbor, LLC:
   Jessica Edger-Hillman
   303 East 14th Street
   Elmira Heights, New York 14903

39. The terms and provisions of this Agreement shall be binding upon the heirs, successors, distributees and assigns of the parties hereto.

40. The parties agree to execute an amendment to this Agreement specifying the date that all of the Conditions Precedent are satisfied.

In Witness Whereof, the parties have executed this Agreement as of the Effective Date.
LIST OF EXHIBITS: Exhibit A - Site Plan dated 11/30/22.


Exhibit C- Survey Map Showing Parcels to Be Conveyed to The City Of Ithaca.
On the _____ day of ____________, 2023 before me, the undersigned, personally appeared ____________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

____________________________________
Notary Public

On the _____ day of ____________, 2023 before me, the undersigned, personally appeared ____________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

____________________________________
Notary Public
WARNING: It is a violation of New York State Law for any person, unless acting under the direction of a licensed Architect, to alter this document in any way. If a document bearing the seal of an Architect is altered, the altering Architect shall affix to such document his seal and the notation "altered by" followed by his signature, the date of such alteration, and a specific description of the alteration.
AMENDED AND RESTATED
DEVELOPMENT AND
MAINTENANCE AGREEMENT
BETWEEN
THE CITY OF ITHACA
AND
CITY HARBOR, LLC

___ day of THIS AMENDED AND RESTATED DEVELOPMENT AND OPERATING
AGREEMENT (this "Agreement") is made as of the ___ day of 2023 (the
"Effective Date"), between the CITY OF ITHACA ("City") and CITY HARBOR, LLC ("City
Harbor").

WHEREAS,

a. City Harbor has acquired the owner of property located at 101 Pier
Road, City of Ithaca (the "City Harbor Property") and intends to redevelop the City
Harbor Property into a mixed-use residential project in accordance with the site plan
(approved by the City of Ithaca Planning Board by resolutions dated August 25, 2022 and October 25, 2022 (the "Redevelopment Project");

b. City Harbor has proposed certain improvements to City-owned land (the "City
land") as a part of the Redevelopment Project, and the City is supportive of such
improvements;

c. As a condition of site plan approval, Pursuant to the approved Site Plan, for the
Redevelopment Project, City Harbor will commit to relocate Pier Road, construct
and maintain street improvements, pedestrian walks, tree plantings, storm sewer
structures, site lighting relocation of, relocate the Newman Golf Course parking
lot, golf cart parking, tee boxes, and trees, and install netting near the 9th Green
(collectively "Pier Road Improvements") on a portion of City land as shown on the
attached Site Plan identified as Exhibit A, and to this Agreement and any
subsequent amendments thereto, and uphold all other obligations under this
Agreement, including without limitation the maintenance of certain Pier Road
Improvements as set forth in Paragraph 9 and depicted on Exhibit A;

d. The City owns the lands of Pier Road and Newman Golf Course and has agreed
to allow physical improvements to be completed on, along and adjacent to Pier
Road and Newman Golf Course to facilitate the Redevelopment Project as
described herein and subject to the terms and conditions of this Agreement; and

e. In consideration of the mutual covenants and agreements in connection with the
Redevelopment Project, the Parties agree to the terms and conditions set forth herein.

NOW THEREFORE IT IS HEREBY AGREED THAT:

Term
1. This Agreement shall be for a term of fifty (50) years commencing on the date upon which all of the following conditions have been fulfilled (the "Conditions Precedent"):
   a. Site Plan approval.
   b. Receipt of Notice of Award of satisfactory Tax Abatements from Tompkins County Industrial Development Agency for the Redevelopment Project, and closing on all construction financing and financial assistance necessary to construct the Redevelopment Project.
   c. Filing in the Tompkins County Clerk's Office of a permanent easement to the City for certain street improvements constructed upon lands of City Harbor (the "Street Improvements Easement").
   d. Filing in the Tompkins County Clerk's Office of a deed to the City conveying certain street improvements constructed upon lands of City Harbor (the "Pier Road Deed").
   e. Filing in the Tompkins County Clerk's Office of a permanent public access easement to the City for a publicly accessible pedestrian promenade ("Promenade") along the waterfront of Cascadilla Creek and Cayuga Inlet on lands of City Harbor (the "Promenade Easement").
   f. The City issuance of a street permit to City Harbor for the purposes of constructing the Redevelopment Project and Pier Road Improvements.
   g. Completion of the Pier Road Improvements.

2. In the event that any of the conditions stated in paragraph 1 have not been fulfilled within three years from the Effective Date, this Agreement shall terminate.

3. Upon termination, City Harbor shall be relieved of further responsibility for construction, maintenance, or repair of the Pier Road Improvements, and shall have no rights to the same as distinct from members of the public. In the event City Harbor commences work on the Pier Road Improvements but is unable to complete the approved improvements as set forth in this Agreement, unless otherwise accepted by the City, City Harbor agrees to restore Pier Road and its associated City owned facilities and improvements to their original condition or better. If City Harbor fails to complete such restoration within a reasonable time, the City may, but shall not be obligated to, complete said restoration upon no fewer than 30 days written notice to City Harbor, with the full costs of such restoration to be borne by City Harbor.

CITY HARBOR OBLIGATIONS

4. City Harbor shall timely apply for site plan review approval pursuant to The Site Plan approved by the City of Ithaca Planning Board includes the City requirements for the Redevelopment Project. The proposed site plan shall include the Pier Road Improvements for public use and the Promenade. The design and layout of the City Harbor agrees to construct the Redevelopment Project, Pier Road Improvements and Promenade shall be presented and approved as part of the approved Site Plan and subsequently approved amendments thereto, if any. A proposed final design for the portion of the site plan for the Redevelopment Project. City Harbor acknowledges that the adherence to the terms and conditions of this Agreement shall be a condition of site plan approval by the Newman Golf Course ("Newman Improvements") is set forth on Exhibit A. The staging, site disturbance, or other such preparatory work for the Redevelopment Project may commence with the consent of the Director of Planning and Development Board or their designee and upon the issuance of the City.

5. The construction and maintenance of an appropriate permit prior to the issuance of the Promenade shall be the sole responsibility of City Harbor building permit.

5. City Harbor will perform the improvements to the Newman Golf Course in a manner that will
not unreasonably interfere with the use the golf course. Construction of the Pier Road Improvements shall take place as indicated in the Site Phasing Plan dated November 11, 2022, attached as Exhibit B hereto, which provides, inter alia, as follows:

- **Phase 1 (March 2023-October 2024)**
  - Completion of tees and Newman parking lot by June 2023
  - Installation of permanent netting on 9th Green
  - Construction of temporary drive near 9th Green
  - Construction of site entrances

- **Phase 2 (November 2024 – February 2025)**
  - Pavement of portion of Pier Road and City Harbor parking lot
  - Relocation of site entrance #1

- **Phase 3 (March 2025-June 2025)**
  - Pavement of Pier Road Turnaround
  - Pavement of remainder of Pier Road

Moreover, City Harbor will either (a) perform the Newman Improvements at a time when the golf course is closed for the season, or (b) in the event that performing the Newman Improvements when the golf course is closed is not feasible, consult with the Director of Planning and Development and Superintendent of Public Works or their designees to develop and implement a plan—subject to approval by the City, which approval shall not be unreasonably withheld—for minimizing disruption to golf course operations and visitors, including by maintaining access to and adequate parking for the golf course during construction. In the event that the timeline established in the Site Phasing Plan cannot be adhered to, City Harbor shall consult with the Director of Planning and Development and Superintendent of Public Works or their designees to establish a revised timeline, subject to the approval of the Director of Planning and Development or their designee.

6. City Harbor conveyed the Promenade Easement to the City of Ithaca by Promenade Easement Agreement dated February 22, 2022 and recorded in the office of the Tompkins County Clerk on February 23, 2022 as Instrument Number 2022-01876. The Promenade may be used by the public at any time as detailed in the Promenade Easement permitting year-round access by the public.

6.7. The construction of the Pier Road Improvements, including relocation of any underground utility lines, shall be the sole responsibility of City Harbor and subject to City specifications and final approval/applicable permits.

7.8. With respect to any portions of utilities or fixtures installed within City land that are placed adjacent to or cross the Ithaca Area Wastewater Treatment Facility (IAWWTF) outfall pipe (“Outfall”), running from the northern shore of Cascadilla Creek through the City Harbor parcel pursuant to an “Easement for Outfall Pipe Facilities” recorded in Liber 595, Page 509 with the Tompkins County Clerk on July 14, 1983, as amended by instruments recorded with the Tompkins County Clerk in Liber 608, Page 596, and as Instrument Number 2021-06377 and continuing through City land immediately to the north of the City Harbor parcel, such subsurface utilities, lines and pipes installed within City land, and crossing the Outfall pipe in a location where no sheet piles exist, must be encased in steel casing sleeves. Where sheet piles exist, the steel casing
sleeves must extend from the sewage outfall pipe centerline to four feet beyond the sheet pile on either side of the sewage outfall pipe. In carrying out such purposes and obligations under this Agreement, City Harbor and its successors and assigns shall not interfere with the construction, operation, maintenance, repair, or replacement of the Outfall or any other City facilities or improvements, or cause injury or damage to the Outfall or any such City facilities or improvements.

8.9 Maintenance of the Pier Road Improvements by City Harbor shall include the following:

a. Except as provided below with respect to the Newman Improvements, City Harbor will maintain at its own expense the improvements approved in the Site Plan in a safe, sound, clean and serviceable condition, in accordance with all applicable ordinances of the City, such that no hazard is posed to the public from the public's use of or proximity to the same, and will repair damage and defects in such improvements, as provided in this Agreement.

b. City Harbor will provide custodial and landscaping services to maintain the appearance of the improvements, including trash removal and routine care of vegetation within the improved areas delineated on the Site Plan and in accordance with City's exterior property maintenance ordinance.

c. City Harbor will plow the street and sidewalks clear of snow within the improved areas delineated on the Site Plan to the City's reasonable standard and in compliance with the City's exterior property maintenance ordinance, or will contract for the same.

d. City Harbor will maintain and clean all storm sewer facilities installed and provide an easement to the City for access to stormwater lines installed on City Harbor property. In addition to storm sewer facilities installed on the City Harbor property, City Harbor shall also be responsible for maintaining and cleaning storm sewer facilities installed within the as-built and realigned Pier Road right of way extending to the east of the connection to storm sewer lines serving and installed within the golf course parking lot.

e. City Harbor shall not be responsible for maintaining City land beyond the limits delineated on the Site Plan, except that City Harbor shall maintain Pier Road, including the Pier Road turnaround, up to the Willow Avenue intersection.

f. Following its construction, City Harbor shall not be responsible for maintaining any portion of the Newman Golf Course or the improvements made thereto by City Harbor, but shall remain responsible for maintaining the temporary netting noted on Exhibit A for so long as it remains installed.

g. City Harbor will not have a duty to repair damages and defects caused by the City's use of the City lands. For purposes of this clause, the public's use shall not constitute the City's use.

h. The foregoing does not convey any rights to the land upon which the Pier Road Improvements sit. Any proposed alterations or work within City lands or the right of way must be approved prior to commencement of the work through a street permit or other formal City authorization and be performed in accordance with the Superintendent of Public Work's specifications.

9.10 The design of the Pier Road Improvements shall be subject to the approval of the Superintendent of Public Works to assure that City emergency and maintenance vehicles have access to City lands and utilities. Final details shall be as set forth in the site plan approval, but shall include the following:

- The Pier Road pavement width shall be minimally 22 feet wide, so as to allow use...
and access by City vehicles as part of the City’s maintenance duties. Pavement width will be increased where necessary to comply with emergency apparatus access requirements. The pavements shall be constructed to the depths and with suitable materials typical for a City residential street.

a. The site plan shall accommodate the turning radius for an Ithaca Fire Department aerial ladder truck at the intersection of Pier Road and Willow Avenue, the intersection of Pier Road and Harbor Lane, and at the Pier Road Turnaround. The species, size and spacing of tree plantings on City land as recommended by the City Forester.

40.11. City Harbor shall obtain at its expense a survey of the completed Pier Road Improvements to show the as-constructed location of the street, sidewalks and tree plantings and the lines delineating the property which is under City Harbor obligations and that which is under City obligations.

12. City Harbor will convey the two parcels of City Harbor Property shown as Parcel 1 and Parcel 2 on the attached Exhibit C prior to the time of completion of the Pier Road Improvements. Said parcels shall be maintained by City Harbor pursuant to paragraph 9 of this Agreement both before and after the conveyance.

13. City Harbor will convey to the City an easement for emergency access by police, fire, medical, and other emergency responders over and across the portion of City Harbor property designated as “Harbor Lane” on Exhibit A.

City Obligations

11.14. The City will remain the owner of record for Pier Road. In the unlikely event that Pier Road is classified by Tompkins County as taxable, any amounts due for taxes or assessments shall be paid by the City.

12.15. Upon acceptance by the Superintendent of Public Works, the City shall be responsible for the storm sewer mains and catch basins installed within the outfall easement area, as authorized and installed pursuant to the Amendment to the Easement for Outfall Pipe Facilities, executed on May 27, 2021 between City Harbor, LLC and the municipal owners and recorded with the Tompkins County Clerk on June 9, 2021 as Instrument Number 2021-06377, and the associated storm sewer lines continuing and serving the southern-most portion of the golf course party and golf course parking lot.

13.16. The City will be responsible for the maintenance of the Newman Parking Lot Golf Course and once constructed, the improvements made to the Newman Golf Course by City Harbor pursuant to this Agreement and all trees or other vegetation outside the limits of the Pier Road Improvements shown on the Site Plan, except for the netting which shall be maintained by City Harbor as provided by paragraph 9 of this Agreement and indicated on Exhibit A. Once constructed by City Harbor in a location approved by the City, the City will provide all services, labor and equipment necessary to maintain the Newman Golf Course 9th Green.

14.17. City Harbor shall install Pier Road lighting in accordance with specifications provided by the Superintendent of Public Works. Site Plan. Upon acceptance and approval of the installation of the lighting, the City shall maintain and pay the cost of electric service for any existing or future lighting adjoining the Club House and Pier Road.

15.18. The City will provide timely notice to City Harbor of any damage or defects to the Pier Road Improvements. City Harbor further agrees to repair or remove any such damage or
defect, as directed by the City except for damage or defect caused by the City. In the event of City Harbor's failure to effect such repair or removal, after notice from City to do so, the City may carry out the same and charge City Harbor for such cost.

16. The City shall be the sole owner of the improvements, and may in its sole discretion alter, remove, or destroy the improvements, at its own expense. If the City alters the improvements, City Harbor obligations under this Agreement shall continue to such extent as those obligations are substantially similar in substance and scope to the obligations herein agreed, provided that the public use of the street and walks continues to be solely for vehicular and pedestrian access, respectively. The City shall provide City Harbor with notice at least ninety (90) days prior to substantially and intentionally altering, removing or destroying the improvements, permitting City Harbor to provide comment on such plans.

17. Notwithstanding the foregoing paragraph, the City may not during the term of this Agreement alter, remove or destroy the location of Pier Road as set forth on the site Plan, including the Pier Road Turnaround or impede vehicular and pedestrian access to use of the Pier Road and the Pier Road Turnaround. Except for damage incidental to fire or rescue efforts to the City Harbor structure or property, any damage to the Pier Road Turnaround caused by the City shall be promptly repaired at the City's expense.

18. Unless in the case of emergencies, the City will give notice to City Harbor and, as feasible, the residents of the Redevelopment Project of any substantial closures, repairs, and maintenance that it plans to perform in the vicinity of the Redevelopment Project.

19. Contingent upon the execution of this Agreement and the site plan approval for the Redevelopment Project, the City shall diligently and in good faith pursue the Street Work Permit process for the Pier Road Improvements, as delineated in the Site Plan and on Exhibit A. The City shall retain discretion to approve or deny any Street Work Permit, but approvals shall not be unreasonably withheld and any denial shall not preclude City Harbor from amending an application or re-applying for a Street Permit to address any deficiencies identified with a denied application.

20. Notwithstanding any other provisions herein, the Agreement contained herein may be revoked or modified by the City (a) upon such notice as is practical, in the event of an emergency that threatens property or the public safety or welfare, or (b) upon at least one month's notice that the Superintendent of Public Works has determined that City Harbor has failed to materially comply with any substantive term herein, and that City Harbor has not cured such breach within the notice period. No such failure to cure shall be deemed to exist if City Harbor has commenced to cure such breach within such period and provided that such efforts are prosecuted to completion with reasonable diligence.

21. Indemnification, Liability, and Insurance

City Harbor shall defend, indemnify, and hold harmless the City from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's and experts' fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, or contamination of or adverse effects on the environment caused by the acts or omissions of City Harbor sustained on the City land in the construction of the Pier Road Improvements and in the performance of the City Harbor maintenance obligations hereunder which affect the City land unless caused by or arising from
defects in the City land or Pier Road Improvements that are (a) caused by any negligence or willful misconduct on the part of the City, or (b) as to which the City received prior written notice, as defined in Section C-107 of the City of Ithaca Charter, but then failed to so inform City Harbor within one week of receipt thereof.

22.25. Notwithstanding any other provision in this Agreement, with respect to the portions of the Pier Road Improvements that require protection of the Outfall, as described in paragraph 8 above, or that are installed above the Outfall, City Harbor agrees to fully defend, indemnify and hold harmless the City of Ithaca, Town of Ithaca, Town of Dryden, Special Joint Committee and their respective elected officials, public officers, Boards, employees, members and agents (collectively, the “Municipal Indemnified Parties”) from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney’s and experts’ fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, contamination of or adverse effects on the environment, or IAWWTF SPDES permit violations, caused by the acts or omissions of City Harbor or its employees, agents or subcontractors, in connection with this Agreement. This indemnification shall not extend to the proportion of damages, losses and claims caused by a reckless or intentional wrongful act of the Municipal Indemnified Parties or, where City Harbor is not in breach of this Agreement and no emergency situation exists, by the Municipal Indemnified Parties’ negligence.

23.26. The City shall defend, indemnify, and hold harmless City Harbor from any claims, damages, costs and expenses arising out of defects in the City land to the extent caused by negligence or willful misconduct of the City or which arise on City land not subject to the Pier Road Improvements.

24.27. When City Harbor and the City have both contributed to liabilities incurred by the Parties, each will indemnify the other in proportion to its respective responsibility for the act or omission that gave rise to such liability.

25.28. Notwithstanding any other provision of this Agreement, in no event shall the City be required to defend, hold harmless, or indemnify City Harbor or any other party from suits, actions, damages, liability, or expense which, had it been asserted against the City directly, would not have necessitated the City either to defend on the merits or to incur the resulting liability under applicable law.

26.29. At all times that the Agreement is in effect, including during construction of the Pier Road Improvements, Each party shall provide proof of commercial general liability coverage in the amount of $1,000,000 per occurrence, $2,000,000 in the aggregate, and umbrella coverage of $5,000,000, which amounts may be increased every five (5) years for cost of living adjustments in accordance with commercially reasonable insurance practices at least every ten (10) years. Each party shall cause its insurance policy to name the other party as an additional insured with respect to the coverages required herein and contractual liability. City Harbor shall also provide proof of compliance with statutory Worker’s Compensation and Disability coverage requirements.

27.30. Notwithstanding any other provision in this Agreement, with respect to the portions of the Pier Road Improvements that require protection of the Outfall, as described in paragraph 8 above, City Harbor shall maintain and provide proof of insurance in the same amounts required by paragraph 26.29 above and naming the Municipal Indemnified Parties as additional insured.
Miscellaneous

28.31. The City may add any reasonable fees, reimbursements, penalties or other amounts City Harbor owes the City by virtue of City Harbor' obligations and responsibilities under this Agreement, which have been billed by the City to City Harbor and remain unpaid, to the tax bill of the City Harbor Property.

29.32. Except as otherwise set forth in this Agreement, the Parties shall bear their own costs and expenses, including engineering fees, legal accounting, insurance, and fees incurred in connection with the negotiation and preparation of this Agreement and any subsequent exercising of rights or performance of obligations set forth in this Agreement. In the event that a party is determined by a court of competent jurisdiction to be in material breach of any of the substantive terms of this Agreement, the party found to be in breach shall be liable for the costs and reasonable attorneys' fees of the party that asserted and prevailed upon such claim.

30.33. The maintenance and any other use by City Harbor of the City land does not constitute and shall never ripen into or become a right to use any portion of such property without the consent of the City.

31.34. This Agreement supersedes all prior Agreements, understandings, and communications between the Parties, whether oral or in writing, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except by a writing signed by all Parties. The waiver by a party of its rights under this Agreement or of a breach by any other party shall not constitute a waiver of any other rights under this Agreement or of any future breaches by any party.

32.35. If any part, paragraph, or portion of this Agreement is held to be void, invalid, inoperative, or unenforceable for any reason, such provision shall be deemed severed and the remainder of this Agreement shall not be impacted and shall continue in full force and effect, unless to do so would fundamentally contravene the present valid and legal intent and purpose of the Parties. The Parties agree that each and every provision that is deemed by a court of competent jurisdiction to have been required by law to be included in this Agreement shall be deemed to be inserted herein and shall have the same force and effect as if it were actually inserted.

33.36. This Agreement may not be assigned by either party without the express written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, City Harbor may assign this Agreement to any entity which becomes the owner of the City Harbor Property or a portion thereof for the purpose of developing and owning any portion of the City Harbor Property or to any lender providing financing which is secured by a mortgage on any portion of the City Harbor Property. Except for the provisions related to the IAWWTF Outfall, this Agreement is not intended to benefit any third-party, and no person or entity who is not a party shall be entitled to enforce any of the rights, interests, or obligations of a party to this Agreement.

34.37. This Agreement shall be governed by the laws of the State of New York. Any action or proceeding relating to this Agreement shall be venued in a court of competent jurisdiction that is located in the County of Tompkins.

35.38. All notices required by this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, personal delivery, or facsimile at the following addresses:

To City:

Mayor
City of Ithaca
To City Harbor, LLC:

Jessica Edger-Hillman
303 East 14th Street
Elmira Heights, New York 14903

36.39. The terms and provisions of this Agreement shall be binding upon the heirs, successors, distributees and assigns of the parties hereto.

37.40. The parties agree to execute an amendment to this Agreement specifying the date that all of the Conditions Precedent are satisfied.

In Witness Whereof, the parties have executed this Agreement as of the Effective Date.

CITY OF ITHACA
By:____________________________
Name: ________________________
Title: _________________________
Date: ________________

CITY HARBOR, LLC
By:____________________________
Name: ________________________
Title: _________________________
Date: ________________

LIST OF EXHIBITS: Exhibit A - Site Plan dated 11/30/22.
Exhibit C - Survey Map Showing Parcels to Be Conveyed to The City Of Ithaca.
On the _____ day of ____________, 2023 before me, the undersigned, personally appeared ______________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

____________________________________
Notary Public

STATE OF NEW YORK) SS.
COUNTY OF CHEMUNG)

STATE OF NEW YORK) SS.
COUNTY OF Tompkins)
On the _____ day of ________, 2023 before me, the undersigned, personally appeared
___________, personally known to me or proved to me on the basis of satisfactory evidence to
be the individual whose name is subscribed to the within instrument and acknowledged to me
that she executed the same in her capacity, and that by her signature on the instrument, the
individual or the person upon behalf of which the individual acted, executed the instrument.

____________________________________ Notary Public
WHEREAS, the Ithaca Area Wastewater Treatment Facility (IAWWTF), which is owned and operated by the IAWWTF Owners, treats municipal wastewater originating from the City and Town of Ithaca, as well as portions of the Town of Dryden, pursuant to a Joint Sewer Agreement dated December 31, 2003, as it may be amended; and

WHEREAS, the Village of Cayuga Heights Wastewater Treatment Plant (VCHWWTP), which is owned and operated by the Village of Cayuga Heights, treats municipal wastewater from the Village of Cayuga Heights as well as portions of the Towns of Ithaca, Dryden, Lansing, and the Village of Lansing under the terms of individual agreements with the Village of Cayuga Heights and their respective sewer use laws and ordinances; and

WHEREAS, the four municipalities believe that it is in their best interests to make full use of existing community assets before building new or expanding existing facilities, provided any proposed agreement makes allowance for future demands within those municipalities during the agreement period, and that the costs are distributed in accordance with the benefits received, including avoided costs; and

WHEREAS, because their mission is to serve the aforementioned municipalities, there is a history of cooperation between the owners of the two wastewater treatment plants focused on protecting the environment by cooperating in the treatment of sewage; and

WHEREAS, the municipalities’ Intermunicipal Wastewater Agreement dated December 31, 2003, endorses the concept of the Village of Cayuga Heights’ utilization of excess IAWWTF capacity to leverage the efficient treatment of waste without causing an environmental emergency and/or to comply with DEC point discharge regulations; and

WHEREAS, the IAWWTF Owners must implement and enforce a pretreatment program to control discharges from all IAWWTF industrial users pursuant to requirements set out in 40 CFR Part 403; and

WHEREAS, the Village of Cayuga Heights agrees to adopt a sewer use law that subjects the industrial users within its boundaries whose wastewater discharges are capable of flowing to the IAWWTF to the necessary pretreatment controls, and to implement and enforce that sewer use law, and

WHEREAS, the Special Joint Committee of the IAWWTF (SJC), at its meeting of January 11, 2023, voted to recommend to its municipal boards to approve the two agreements attached hereto (including any non-substantive changes made for clarity by the SJC Chair and Attorney): (A) Plant to Plant Agreement Between City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights, and (B) Multijurisdictional Pretreatment Agreement Between City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights, contingent on approval of both agreements by the City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights with further recommendation that the effective date of the two agreements be as of August 15, 2021, now, therefore be it

RESOLVED, that the City of Ithaca Common Council approves the two agreements attached hereto (including any non-substantive changes made for clarity by the SJC Chair and Attorney): (A) Plant to Plant Agreement Between City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights, and (B) Multijurisdictional Pretreatment Agreement Between City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights, contingent on approval of both agreements by the City of Ithaca, Town of Ithaca, Town of Dryden and Village of Cayuga Heights; and be it further

RESOLVED, that the effective date of the two agreements be as of August 15, 2021.
Plant to Plant Agreement
Between
City of Ithaca, Town of Ithaca, Town of Dryden
And
Village of Cayuga Heights

This Agreement is made as of the 15th day of August, 2021, between the CITY OF ITHACA, Tompkins County, New York, TOWN OF ITHACA, Tompkins County, New York, and TOWN OF DRYDEN, Tompkins County, New York (hereafter collectively referred to as “IAWWTF Owners”), and VILLAGE OF CAYUGA HEIGHTS, Tompkins County, New York.

WITNESSETH:

WHEREAS, the Ithaca Area Wastewater Treatment Facility (IAWWTF), which is owned and operated by the IAWWTF Owners, treats municipal wastewater originating from the City and Town of Ithaca, as well as portions of the Town of Dryden, pursuant to a Joint Sewer Agreement dated December 31, 2003, as it may be amended; and

WHEREAS, the Village of Cayuga Heights Wastewater Treatment Plant (VCHWWTP), which is owned and operated by the Village of Cayuga Heights, treats municipal wastewater from the Village of Cayuga Heights as well as portions of the Towns of Ithaca, Dryden, Lansing, and the Village of Lansing under the terms of individual agreements with the Village of Cayuga Heights and their respective sewer use laws and ordinances; and

WHEREAS, the parties believe that it is in their best interests to make full use of existing community assets before building new or expanding existing facilities, provided any proposed agreement makes allowance for future demands within those municipalities during the agreement period, and that the costs are distributed in accordance with the benefits received, including avoided costs; and

WHEREAS, because their mission is to serve the aforementioned municipalities, there is a history of cooperation between the owners of the two wastewater treatment plants focused on protecting the environment by cooperating in the treatment of sewage; and

WHEREAS, the parties’ Intermunicipal Wastewater Agreement dated December 31, 2003, endorses the concept of the Village of Cayuga Heights’ utilization of excess IAWWTF capacity to leverage the efficient treatment of waste without causing an environmental emergency and/or to comply with DEC point discharge regulations; and

WHEREAS, the overarching history of past agreements and purpose of this agreement is to foster a cooperative framework among the owners of their respective wastewater treatment plants and those who are served.
NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, the parties agree as follows:

Section 1 –Historical Overview, Agreement Basis, and Assumptions

1.1 Exhibit A contains an Historical Overview, Basis for Diversions, and Engineering Assumptions, all of which provide historical background information and assumptions for VCHWWTP’s flow diversions to the IAWWTF prior to August 15, 2021 and provide some information about the basis for VCHWWTP’s flow diversions made on and after August 15, 2021. Updated background information and assumptions on which this Agreement is based are in the Exhibit B memo titled “Flow Diversion Pricing Methodology” dated August 2, 2021, and updated January 11, 2023. Should these assumptions prove to be wrong, the parties shall amend this Agreement so the IAWWTF Owners are fairly compensated for their actual costs.

Section 2 –Implementation of and Payment for Flow Transfers

2.1 The parties agree that on and after August 15, 2021, the Village of Cayuga Heights is permitted to make short-term flow diversions to the IAWWTF on both emergency and nonemergency bases through the Kline Road bypass (shown in Exhibit C) from the properties within the portion of the Village of Cayuga Heights shown on Exhibit D. The Village of Cayuga Heights shall operate the bypass to (a) divert to the IAWWTF flows from the Village of Cayuga Heights’ Kline Road interceptor that exceed the capacity of the Sunset Road sewer pipe to take flows to the VCHWWTP, as well as b) temporarily fully divert to the IAWWTF flows from the Village of Cayuga Heights’ Kline Road interceptor. When possible, the Village of Cayuga Heights shall provide twenty-four (24) hour advance telephone and email notification to the IAWWTF’s Chief Operator prior to any flow diversions. The Village of Cayuga Heights shall follow up with written notice as provided in Section 6.1 of this Agreement. The bypass may not divert flows from any properties not shown on Exhibit D without an amendment to this agreement or a new agreement with the IAWWTF Owners that includes as parties all municipalities contributing to the diverted flows (the Village of Cayuga Heights and, as relevant, the Village of Lansing and/or the Town of Lansing). Notwithstanding the foregoing, if the IAWWTF notifies the Village of Cayuga Heights that diverted flows would result in the IAWWTF violating its SPDES permit, then during the period of time stated in the notice, the Village of Cayuga Heights will not divert flows above the volume or flow rate stated in the notice. The IAWWTF may close the bypass if the Village of Cayuga Heights fails to comply with the notice. The Village of Cayuga Heights hereby grants the IAWWTF and its representatives a non-exclusive license to enter the inlet valve vault on Kline Road for this purpose.

2.2 Pursuant to the terms of the IAWWTF Owners’ Joint Sewer Agreement, flows to the IAWWTF originating from the Village of Cayuga Heights, which lies wholly within the Town of Ithaca, are deemed to be Town of Ithaca flows. The Town of Ithaca’s own flows to the IAWWTF, plus the diverted flows via the Kline Road bypass, may not exceed the Town of Ithaca’s owned capacity in the IAWWTF.
2.3 The Village of Cayuga Heights will pay the IAWWTF for three sets of charges: for IAWWTF treatment of diverted flows, for IAWWTF carrying (capacity) costs, and for conveyance of the diverted flows to the IAWWTF. In addition, the Village of Cayuga Heights shall pay fees to the IAWWTF when the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of more than three (3) hours. The methodologies to calculate these charges and fees, along with frequency of billing and payment due dates, are set forth in Section 4 and Exhibit B.

2.4 The parties are concurrently entering into a new multijurisdictional pretreatment agreement. If in the future it is contemplated that flows in the Village of Cayuga Heights sewer system from (a) the Village of Lansing, (b) the Town of Lansing, and/or (c) properties in the Village of Cayuga Heights not shown on Exhibit D be diverted to the IAWWTF, the Village of Lansing and Town of Lansing must enter into multijurisdictional pretreatment agreements with the IAWWTF Owners and the Village of Cayuga Heights before flows from their respective jurisdictions can be diverted to the IAWWTF, and the Village of Cayuga Heights and the IAWWTF Owners must amend their multijurisdictional pretreatment agreement to apply to all Village of Cayuga Heights flows that can be diverted to the IAWWTF.

Section 3 – Treatment

3.1 The IAWWTF will properly treat and dispose of all transferred flows. The transferred flows must comply with the requirements of the sewer use laws and ordinances of the municipalities in which they originate and, if more stringent, the pretreatment laws adopted by the IAWWTF Owners. This is to ensure that the flows do not cause pass through violations, interference with plant operations, sludge contamination, a threat to IAWWTF worker safety or nuisance odors. Verification testing required by permits or as needed by plant operations will be a cost of this Agreement. If such testing is performed by the IAWWTF on flows diverted from the Kline Road bypass, the costs will be billed to the Village of Cayuga Heights at cost and paid within forty-five (45) days of receipt of the bill or paid on such other terms as may be mutually agreed upon.

3.2 The IAWWTF Owners’ uniform pretreatment laws are attached as Exhibit E. A copy of the IAWWTF operating permit issued by NYSDEC is available upon request to the IAWWTF Chief Operator.

Section 4 – Monitoring Station and Measurement of Flows

4.1 Transferred flows shall be routed through the existing sewage flow monitoring station that the Village of Cayuga Heights paid for and installed at the Kline Road bypass. The Village of Cayuga Heights shall pay for and perform, or cause to be performed, installation of a battery backup system, monitoring station readings, inspections, maintenance, repairs, and replacements of equivalent or better equipment for the Kline Road bypass monitoring station. The Village of Cayuga Heights shall provide
to the IAWWTF on a monthly basis data from its consultant (LECTRE) specifying the quantities of diverted flows broken down by date at 5-minute intervals on a midnight-to-midnight basis. Such information may be transmitted by email or other means agreed on by the parties. In addition, the IAWWTF shall have live and continuous access to the LECTRE dashboard data from the Kline Road monitoring station and from the sewage flow monitoring stations immediately upstream and downstream of the Kline Road monitoring station. The Village of Cayuga Heights shall permit LECTRE to provide the IAWWTF with such dashboard data access.

4.2 The Village of Cayuga Heights shall inspect the Kline Road flow monitoring station after every rain event to determine if it is functioning properly. This will be accomplished remotely via the LECTRE dashboard unless it is unavailable or unless there is indication that an in-person inspection is warranted.

4.3 Whenever the Village of Cayuga Heights determines or learns from the IAWWTF that the Kline Road monitoring station is inoperable or providing inaccurate readings, the Village of Cayuga Heights shall, as soon as practicable, (a) provide telephone and email notice to the IAWWTF, and (b) repair or replace the monitoring station so that it functions properly. The IAWWTF will notify the VCHWWTP as soon as practicable whenever the IAWWTF determines or suspects that the monitoring station is inoperable or providing inaccurate readings. In an emergency situation when the IAWWTF cannot contact VCHWWTP personnel, the Village of Cayuga Heights hereby grants the IAWWTF and its representatives a non-exclusive license to enter the monitoring station vault on Kline Road for purposes of flow monitoring station access and inspections.

4.4 The IAWWTF will use LECTRE dashboard data to determine diverted flow volumes for the purpose of calculating charges to the Village of Cayuga Heights, except as follows.

(a) When the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of three (3) hours or less (the “Outage Period”), the substitute reading for each missing reading shall be the average of the last reading prior to the Outage Period and the first reading after the Outage Period.

(b) When the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of more than three (3) hours (a "Gap"), as reported to the parties by their consultant LECTRE, Inc. on a quarterly basis, or as shown by LECTRE dashboard data, the quarterly invoice from IAWWTF to the Village of Cayuga Heights will contain a charge for such Gaps that is derived from an analysis of the weather data obtained from the Game Farm Road readings at http://www.nrcc.cornell.edu/wxstation/ithaca/ithaca.html (or similar website) during the times of the Gaps. If the weather data shows that during the 24 hour period before a Gap starts, or at any time during a Gap, there is a) any precipitation, or b) regardless of precipitation the temperature measures at 33 degrees Fahrenheit or above if the Gap occurs during the months of January, February, March, November or December, then a flow through the Kline Road bypass will be assumed that equals the average gallons per
minute that have flowed through the Kline Road bypass during the quarterly period for which the invoice is prepared. That average gallons per minute shall be multiplied by the number of minutes in the Gap, and then multiplied by the Treatment Rate used for that quarterly invoice to compute the extra charge on such invoice for the Gaps identified as described above.

**Section 5 – Agreement Modification**

5.1 This Agreement constitutes the entire Agreement of the parties. It may be amended only by the written consent of all of the parties, with each party executing and acknowledging the document containing the amendment through its duly authorized representative.

**Section 6 – Notification**

6.1 Where notification is required by the terms of this Agreement, it shall be delivered by hand, overnight courier, or mail, during business hours, to the following addresses. Notices are deemed effective upon receipt.

For notice to the IAWWTF Owners:

Chair, Special Joint Committee  
Ithaca Area Wastewater Treatment Plant  
535 Third St.  
Ithaca, NY 14850

With copies to:

Assistant Superintendent of Public Works  
City of Ithaca Water & Sewer Division  
510 First St.  
Ithaca, NY 14850

Town Engineer  
Town of Ithaca  
215 N. Tioga St.  
Ithaca, NY 14850

Town Engineer  
Town of Dryden  
65 E. Main St.  
Dryden, NY 13053

For notice to the Village of Cayuga Heights:
Village Engineer  
Village of Cayuga Heights  
836 Hanshaw Rd.  
Ithaca, NY 14850

Section 7 – Length of Agreement

7.1 Unless terminated earlier pursuant to this Agreement, this Agreement shall continue in force until December 31, 2025. This Agreement shall automatically terminate if one or both of the following agreements terminate and are not substituted by new agreement(s): the Intermunicipal Wastewater Agreement dated December 31, 2003, or the 2023 Multijurisdictional Pretreatment Agreement between the Village of Cayuga Heights and the IAWWTF Owners. Upon the expiration of the original term, this Agreement may be renewed for additional terms of at least five (5) years each upon the written consent of all the parties. The parties shall review the Exhibit B memo titled “Flow Diversion Pricing Methodology” every five (5) years that this Agreement is in effect to verify the assumptions and projections on which this Agreement is based. The parties agree to use their best efforts to renegotiate the terms of this Agreement if actual experience varies significantly from the assumptions and projections in the Basis for Agreement.

Section 8 – Termination and Bypass Closure

8.1 The IAWWTF Owners or the Village of Cayuga Heights may terminate this Agreement with adequate prior notice. Notice from the IAWWTF Owners to the Village of Cayuga Heights must be provided four (4) years in advance to provide the Village of Cayuga Heights time to respond, design, and build alternate facilities. Notice from the Village of Cayuga Heights to the IAWWTF Owners must be provided one (1) year in advance. These periods are based on the assumption that no capital investments are needed at the IAWWTF to meet the terms of this Agreement. Other periods of notice will be acceptable if agreed to by all parties or as may be agreed to should a capital improvement be necessary or desirable.

8.2 However, nothing in this Agreement is intended to result in the IAWWTF violating the terms of its operating permit with NYSDEC. The IAWWTF Owners may withdraw, in whole or in part, from the terms of this Agreement if withdrawal is necessary to comply with the IAWWTF’s SPDES permit.

8.3 The IAWWTF Owners may send a notice to the Village of Cayuga Heights if the Village is not in compliance with any provision of this Agreement or the Multijurisdictional Pretreatment Agreement among the parties of even date. If the Village of Cayuga Heights fails to come into compliance within forty-five (45) days of the notice, the IAWWTF Owners may enter and close the Kline Road bypass or terminate this Agreement upon an additional forty-five (45) days’ notice.

Section 9 -- Dispute Resolution
9.1 Disputes should initially be referred to the individuals responsible for the plant operations, which will be the Chief Operators of both plants and their immediate supervisors. If resolution cannot be reached by these four individuals, the matter shall be referred in writing to the two boards responsible for plant operations, currently the Village Trustees for VCHWWTP and the Special Joint Committee for the IAWWTF. Ultimately, the parties may seek whatever recourse is available under the law, but no sooner than ninety (90) days after the matter has been referred to the respective boards in writing.

Section 10 – General Items

10.1 Liability Requirements. For purposes of this paragraph, the IAWWTF Owners shall constitute one party, and the Village of Cayuga Heights shall constitute the other party. To the extent permitted by law, each party agrees to fully defend, indemnify and hold harmless the other party and its elected officials, public officers, employees, and agents (the “Indemnitees”) from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney’s fees and costs), whether or not involving a third party claim, which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, other damages, or contamination of or adverse effects on the environment, caused by, resulting from or arising out of the acts or omissions of the indemnifying party, or of the indemnifying party’s elected officials, public officers, employees, and agents, in connection with this Agreement. This responsibility shall not be limited by reason of any insurance coverage the indemnifying party may provide. To the extent the Indemnitees are negligent, a party’s duty to indemnify the Indemnitees shall not extend to the proportion of loss attributable to the Indemnitees’ negligence. Negligence shall include, in addition to negligence founded upon tort, negligence based upon the party’s failure to meet applicable professional standards. Nothing in this section or in this Agreement shall create or give to third parties any claim or right of action against the parties beyond such as may legally exist irrespective of this section or this Agreement.

10.2 Governing Law: This Agreement shall be governed under the laws of the State of New York, without regard to, or the application of, New York State’s choice of law provisions. The parties further agree that the Supreme Court of the State of New York held in and for the County of Tompkins shall be the forum to resolve disputes arising out of either this Agreement or work performed according thereto. The parties waive all other venue or forum selections. The parties may agree between themselves on alternative forums.

10.3 Non-assignment Clause: No party may assign or transfer its rights and interests in this Agreement to another entity without the prior written consent of all of the other parties. Notwithstanding the foregoing, if one or more parties dissolve into, merge with, or wholly annex another party or parties, the party remaining after the dissolution, merger or annexation, or the new merged municipality, as the case may be, shall retain all of the
rights and interests in this Agreement that were held by the involved parties immediately prior to the dissolution, merger or annexation.

10.4 Each party represents and warrants that (a) this Agreement has been presented to its governing body; (b) its governing body has approved this Agreement by a majority vote of the full possible voting strength of that governing body; and (c) if required, all steps by way of public hearings and/or referendum or otherwise have been taken by the time of execution of this Agreement. Resolutions of each governing body approving this Agreement are attached to this Agreement as Exhibit F.

In Witness hereto, the parties have caused this Agreement to be executed by their duly authorized officers, effective on the day and year aforementioned.

[SIGNATURE PAGES FOLLOW]
CITY OF ITHACA

Dated: ___________________________            By: _______________________________
Laura Lewis, Mayor
City of Ithaca

STATE OF NEW YORK  )
COUNTY OF TOMPKINS )

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Laura Lewis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

______________________________
Notary Public
TOWN OF ITHACA

Dated: _______________________

By: ______________________________

Rod Howe, Supervisor
Town of Ithaca

STATE OF NEW YORK )
COUNTY OF TOMPKINS )

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Rod Howe, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________________________
Notary Public
TOWN OF DRYDEN

Dated: ______________________  By: ____________________________
   Jason Leifer, Supervisor
   Town of Dryden

Dated: ______________________  By: ____________________________
   Daniel Lamb, Councilperson
   Town of Dryden

Dated: ______________________  By: ____________________________
   Loren Sparling, Councilperson
   Town of Dryden

Dated: ______________________  By: ____________________________
   ______, Councilperson
   Town of Dryden

Dated: ______________________  By: ____________________________
   Leonardo Vargas-Mendez, Jr.,
   Councilperson
   Town of Dryden

STATE OF NEW YORK  )
   : ss.
COUNTY OF TOMPKINS  )

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Jason Leifer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the
same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public

STATE OF NEW YORK  )
                     : ss.
COUNTY OF TOMPKINS  )

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Daniel Lamb, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public

STATE OF NEW YORK  )
                     : ss.
COUNTY OF TOMPKINS  )

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Loren Sparling, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public
STATE OF NEW YORK  
: ss.
COUNTY OF TOMPKINS  

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared __________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public

STATE OF NEW YORK  
: ss.
COUNTY OF TOMPKINS  

On the ___ day of __________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Leonardo Vargas-Mendez, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public
VILLAGE OF CAYUGA HEIGHTS

Dated: _________________________  By: ______________________________

Linda Woodard, Mayor
Village of Cayuga Heights

STATE OF NEW YORK )
COUNTY OF TOMPKINS )

On the ___ day of _________, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Linda Woodard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same, and that by his/her signature on the instrument, the individual or the person(s) upon behalf of which the individual acted, executed the instrument.

__________________________________________
Notary Public
EXHIBIT A

HISTORICAL OVERVIEW, BASIS FOR DIVERSIONS
& ENGINEERING ASSUMPTIONS

Overview and Method

The Village of Cayuga Heights was originally served by a downtown plant, so much of the Village, as well as portions of the northeast quadrant of the Town of Ithaca, can use gravity and topography to redirect wastewater flows to the current downtown (IAWWTF) plant. Demand exists now for new sewer service in areas of the Village and Town of Lansing, and the Town of Dryden, close to the Village of Cayuga Heights and the Ithaca-Tompkins Regional Airport. When this issue was studied in the early 2000s, additional demand also existed in northern portions of the Town of Lansing such as the Lansing School District complex and homes in the Ladoga Park area, whose individually owned facilities were considered for replacement with connections to municipal treatment facilities. The water quality in Cayuga Lake can be improved by connecting individual properties whose on-site treatment systems are built in areas of high water table or shallow bed rock.

In 2005, the VCHWWTP diverted existing wastewater flows from the VCHWWTP to the IAWWTF via the Kline Road bypass to free up capacity in the VCHWWTP. Flows diverted from areas south of the Village’s plant can reach the downtown plant by gravity. The parties intended that this load sharing approach make use of existing treatment capacity at the IAWWTF, relieve existing excess demand at the VCHWWTP, and allow adequate flexibility to meet projected demands over the next twenty (20) years while adjusting for real demands as they develop. While during this time frame most, if not all, of the municipalities approved a written plant to plant agreement for this permanent flow diversion, apparently it was never signed.

In 2021, the VCHWWTP determined that the VCHWWTP had the capacity to treat wastewater flows within the Kline Road catchment area of up to 500,000 gallons per day under normal operating conditions. The Village of Cayuga Heights proposed to stop the continuous diversions of flows to the IAWWTF that had been in place since the Kline Road bypass became operational. In order to operate within its treatment capacity, the Village of Cayuga Heights requested to divert wastewater flow rates exceeding 500,000 gallons per day to the IAWWTF based on the terms and conditions agreed to by the parties and to divert flows to the IAWWTF as necessary to remain within their treatment capacity.

In 2022, the VCHWWTP determined it was preferable to fully open the Kline Intercept to receive all flows to the VCHWWTP and allow flows that exceed the capacity of the Sunset Road sewer pipe to be diverted to IAWWTF via the Kline Road Intercept. Village of Cayuga Heights has requested the ability to temporarily fully divert all wastewater flows from the Village of Cayuga Heights Kline Road Intercept based on the
terms and conditions agreed to by the parties and to divert flows to the IAWWTF as necessary to remain within their treatment capacity

**Basis for Diversions**

In the early 2000s, to explore the feasibility of continuous diversions of flows from the Village of Cayuga Heights to the IAWWTF, a series of meetings were held between engineers representing the six communities being served by the two plants. The then-current operation of the two plants, then-current flow contributions by the six communities, and estimates for changes in flows were reviewed. Since then-current and anticipated future flows were still within the existing combined treatment capacity, a more detailed review was made of sub-area flows and topography to consider the feasibility of the proposed solution. The initial implementation appeared simple and the benefits to the VCHWWTP would be immediate.

As described above, in 2021 the Village of Cayuga Heights determined that the VCHWWTP had the capacity to treat all flows under normal operating conditions that otherwise would have gone through the Kline Road bypass, except flows exceeding 500,000 gallons/day. The Village of Cayuga Heights modified the bypass infrastructure to limit flows through the bypass in this way, effective August 15, 2021. The bypass infrastructure may also be (and has been) operated to temporarily fully divert to the IAWWTF flows from the Village of Cayuga Heights’ Kline Road interceptor. Exhibit B provides further details about flows through the bypass.

**Engineering Assumptions**

The municipalities looked at plant treatment capacity limitations and collection system wastewater flows in terms of volume and time, i.e. gallons per minute (gpm) or million gallons per day (MGD). The age of major portions of the collection system, the makeup of local municipal wastewater (due to the largely residential, professional, and high technology makeup of the communities), and the configuration of both plants made this approach to capacity reasonable. Peaking factors (peak flow/average flow) appeared to be comparable for the plants and the portions of the collection systems for which data was available. Should other wastewater properties that limit a plant’s permitted capacity come into play, e.g. biological treatment, chemical treatment, or solids handling, the parties agree to use their best efforts to amend this Agreement.

The preliminary review of plant operations at the IAWWTF did not uncover any disproportionate impacts or costs that would be triggered by receiving the diverted flows. No ratchet effect or sudden increase was anticipated in chemical, electrical, or staffing demands at the plant. This was due to the relative size of the two plants (13.1 MGD and 2.0 MGD) and the actual size of the anticipated flow transfers. Should these items develop at a later date, the parties agree to amend this Agreement.
EXHIBIT B
FLOW DIVERSION PRICING METHODOLOGY

Date: 02 August 2021, updated 11 January 2023, with assumptions based on data collected in NetDMRs and the 2021 and 2022 IAWWTF Budget.

The Parties agree to enable the Village of Cayuga Heights Wastewater Treatment Plant (VCH plant) to temporarily divert flows to the Ithaca Area Wastewater Treatment Facility (IAWWTF) by installing a weir at the Kline Road intercept whereby either a) flow rates that exceed the capacity of the Sunset Road sewer pipe to take flows to the VCHWWTF are directed to the IAWWTF for wastewater treatment (peak flow shaving), or b) flows are fully diverted to IAWWTF for brief periods of time (full diversion). Prior to the installation of the weir, all flows from the catchment area were treated by the IAWWTF.

The IAWWTF will see a higher cost per customer from losing the customer base of the portion of the Village of Cayuga Heights which had previously been included in Town of Ithaca flows. The VCH plant will see a larger customer base and higher annual flow as a result of reclaiming these customers and modifying the Kline Road intercept.

The flows from the portion of the Village of Cayuga Heights served by the Kline Road bypass as shown on Exhibit D will be diverted to IAWWTF during periods of peak flow shaving or full diversion as described above, and the IAWWTF will need to maintain capacity to handle these Kline Road diverted flows. The additional annual cost will be charged to the VCH plant to fund IAWWTF’s maintenance of Kline Road diverted flow capacity, in addition to premium treatment rates charged to VCHWWTP to treat flows monitored and received during flow events, which will serve as an incentive to reduce infiltration and inflow in the portion of the Village of Cayuga Heights served by the Kline Road bypass. The Parties recognize that pricing should incorporate allocating costs in accordance with benefits received, as well as costs avoided by VCH by not having to increase the capacity of its plant. The parties also recognize the mutual benefits of cooperation among the only two (2) wastewater treatment facilities at the southern end of Cayuga Lake which according to the U.S. EPA is currently a threatened body of water.

The Village of Cayuga Heights will pay three sets of charges: for IAWWTF treatment of diverted flows, for IAWWTF carrying (capacity) costs, and for conveyance of the diverted flows to the IAWWTF. The Village of Cayuga Heights will also pay fees, as

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1 Item 8 of the 2003 Intermunicipal Wastewater Agreement states: “Each Treatment Facility will set its own O&M rate for each of the Parties it serves. The O&M rates shall include an economic incentive to reduce inflow and infiltration. The Treatment Facilities will adjust the O&M rates periodically to account for collection system improvements made by one or more Parties that reduce infiltration and inflow.”
provided in Section 4.4(b), when the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of more than three (3) hours.

See Section 4 of the Agreement for diverted flow measurement provisions, including Section 4.4 (methodologies to calculate diverted flow volumes when the flow monitoring station is inoperable or providing inaccurate readings).

**Charges for IAWWTF treatment of diverted flows**

\[ \text{Treatment costs} = \text{diverted flow volume} \times \text{Premium Treatment Rate} \]

Treatment costs for 2021 and 2022 are due within forty five (45) days of the Village of Cayuga Heights’ receipt of an invoice for same after full execution of this Agreement. The invoice shall outline all charges and associated gallons treated. All other treatment costs will be billed on a quarterly basis and are due within forty five (45) days of invoice receipt.

The Premium Treatment Rate for each calendar year is calculated by dividing the then-current year IAWWTF budget by the rolling five (5) year average of gallons of wastewater treated (based on actual data collected the previous five years from July to June). The resulting quotient is then multiplied by 1,000 to determine the cost to treat 1,000 gallons of wastewater. The resulting product is then multiplied by three (3). That product is the Premium Treatment Rate.

\[
\left( \frac{\text{annual budget}}{\text{5 year avg of wastewater treated (gal)}} \right) \times 1,000 \times 3 = \text{Premium Treatment Rate}
\]

**Charges for IAWWTF Carrying Costs**

IAWWTF Carrying Costs for each calendar year are calculated by determining the percentage of IAWWTF capacity that had to be reserved for diverted flows (divide the highest flow diverted over a rolling 24 hour period by 13.1 MGD, which is the IAWWTF’s design capacity). Multiply that percentage by the then-current IAWWTF calendar year budget. Multiply that product by 5% (the 5% is an assumed carrying cost/year for the IAWWTF Owners).

\[
\left( \frac{\text{highest diverted flow (gal)}}{13,100,000} \right) \times \text{annual budget} \times .05 = \text{annual carrying cost}
\]

Carrying Costs for 2021 and 2022 are due within forty five (45) days of the Village of Cayuga Heights’ receipt of an invoice for same after full execution of this Agreement. All other Carrying Costs will be billed on an annual basis and are due within forty five (45) days of invoice receipt.

**Annual Fee charge for conveyance (transmission) of diverted flows to the IAWWTF**
The parties have agreed that the Annual Fee covering conveyance (aka transmission) of Village of Cayuga Heights wastewater to the IAWWTF is fixed at Ten Thousand Five Hundred Dollars and No Cents ($10,550.00) per calendar year. This amount will be billed on an annual basis and is due within forty five (45) days of invoice receipt. The 2021 and 2022 Annual Fees are due within forty five (45) days of the Village of Cayuga Heights’ receipt of an invoice for same after full execution of this Agreement.

**Fees for Inoperable/Inaccurately Recording Flow Meter**

When the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of three (3) hours or less, the diverted flow for that period shall be calculated, recorded and charged as set forth in Section 4.4(a).

When the Kline Road flow monitoring station is inoperable or provides inaccurate readings over a continuous period of more than three (3) hours and flow diversions occur (or are reasonably expected to be occurring during periods when the Kline Road bypass is open), the diverted flow for that period shall be calculated, recorded and charged as set forth in Section 4.4(b).
**Exhibit B**

### Calculation Worksheet for 2021 Treatment Rate

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Wastewater Treated (Annual - Based on 5 yr ave)*</td>
<td>2,262,144,200 gallons = 6.198 MGD</td>
</tr>
<tr>
<td>2. 2021 Budget</td>
<td>$3,225,999</td>
</tr>
<tr>
<td>3. Cost to treat 1,000 gallons</td>
<td>$1,426.1 = (budget/wastewater treated) times 1,000</td>
</tr>
<tr>
<td>4. Treatment Rate charged to VCH</td>
<td>$4.2782 = cost to treat 1,000 gallons times 3</td>
</tr>
</tbody>
</table>

* amounts based on NetDMRs July-June

Kline Flows 8/15/2021-12/31/2021 2,805,984

Treatment charges $12,004.67

### Calculation Worksheet for 2021 Carrying Costs

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Reserve Capacity **</td>
<td>830,153.1700 gallons = 0.8302 MGD</td>
</tr>
<tr>
<td>6. % of plant capacity needed in reserve to serve VCH</td>
<td>6.3370% = reserve capacity/13.1 MGD plant capacity</td>
</tr>
<tr>
<td>7. 2021 Budget</td>
<td>$3,225,999</td>
</tr>
<tr>
<td>8. 2021 Budget x % of reserve capacity needed</td>
<td>$204,433.08 = budget x % of plant capacity needed in reserve</td>
</tr>
<tr>
<td>9. Plant Financing Costs</td>
<td>5.00%</td>
</tr>
<tr>
<td>10. Annual Carrying Costs</td>
<td>$10,221.65 = cost to maintain reserve capacity to treat VCH flows</td>
</tr>
<tr>
<td>11. Carrying Cost per day</td>
<td>$28.00</td>
</tr>
<tr>
<td>12. Pro-rated Carrying Costs for 139 days</td>
<td>$3,892.63</td>
</tr>
</tbody>
</table>

** 2021 reserve capacity based on 2021 peak flow event, occurring on Oct 26, 2021 delivered over a 24-hour period beginning 6:25am.

Each year reserve capacity to be based on the peak flow event of that calendar year.

The initial partial year consisted of 139 days from August 15, to December 31, 2021. The maximum peak flow diversion to IAWWTF during this initial partial year was 830,153.17 gallons. This was 6.3370% of capacity that had to be reserved (830,153.17 / 13,100,000 = 6.3370%). In 2021, the IAWWTF Budget was $3,225,999.00, and 6.3370% of that was $204,433.08. Multiply this by the IAWWTF Owners’ assumed carrying cost of 5% per year, which results in $10,221.65 or $28.00/day. This yields a prorated Carrying Cost for 2021 of Three Thousand Eight Hundred Ninety-Two Dollars and Sixty-Three Cents ($3,892.63).

### Annual Fee

<table>
<thead>
<tr>
<th>Calculation</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 Annual Fee ***</td>
<td>$10,550.000 = $28.9041 per day</td>
</tr>
<tr>
<td>14 Pro-rated Annual Fee for 139 days</td>
<td>$4,017.67</td>
</tr>
</tbody>
</table>

***Annual Fee agreed upon by the parties

For the initial partial year consisting of 139 days from August 15, 2021 to December 31, 2021, the 2021 Annual Fee for conveyance costs is prorated to Four Thousand Seventeen Dollars and Sixty-Seven Cents ($4,017.67).

| total gallons of sewage received* | 2,146,623,000 2015-2016 |
| --- | 2,247,852,000 2016-2017 |
| --- | 2,217,890,000 2017-2018 |
| --- | 2,467,820,000 2018-2019 |
| --- | 2,230,536,000 2019-2020 |

2021 5-year average of gallons of sewage received = 2,262,144,200
### Exhibit B

#### Calculation Worksheet for 2022 Treatment Rate

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Wastewater Treated (Annual - Based on 5 yr ave)*</td>
<td>2,228,320,400 gallons</td>
<td>6.10 MGD</td>
</tr>
<tr>
<td>2. 2022 Budget</td>
<td>$3,251,769</td>
<td></td>
</tr>
<tr>
<td>3. Cost to treat 1,000 gallons</td>
<td>$1.459</td>
<td></td>
</tr>
<tr>
<td>4. Treatment Rate charged to VCH</td>
<td>$4.378</td>
<td></td>
</tr>
</tbody>
</table>

* amounts based on NetDMRs

Kline Flows 1/1/2022 - 12/31/2022: 10,683,233

Treatment charges: $46,769.85

#### Calculation Worksheet for 2022 Carrying Costs

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Reserve Capacity **</td>
<td>512,918.24 gallons</td>
</tr>
<tr>
<td>6. % of plant capacity needed in reserve to serve VCH</td>
<td>3.9154% = reserve capacity/13.1 MGD plant capacity</td>
</tr>
<tr>
<td>7. 2022 Budget</td>
<td>$3,251,769</td>
</tr>
<tr>
<td>8. 2022 Budget x % of reserve capacity needed</td>
<td>$127,319.97 = budget * % of plant capacity needed in reserve</td>
</tr>
<tr>
<td>9. Plant Financing Costs</td>
<td>5.00%</td>
</tr>
<tr>
<td>10. Annual Carrying Costs</td>
<td>$6,366.00 = cost to maintain reserve capacity to treat VCH flows</td>
</tr>
</tbody>
</table>

** 2022 reserve capacity based on 2022 peak flow event, occurring on March 7, 2022 delivered over a 24-hour period beginning 8:40am. Each year reserve capacity to be based on the peak flow event of that calendar year.

The maximum peak flow diversion to IAWWTF during 2022 was 512,918.24 gallons. This was 3.9154% of capacity that had to be reserved (512,918.24 / 13,100,000 = 3.9154%). In 2022, the IAWWTF Budget was $3,251,769.00, and 3.9154% of that was $127,319.97. Multiply this by the IAWWTF Owners’ assumed carrying cost of 5% per year, which results in a Carrying Cost for 2022 of Six Thousand Three Hundred Sixty-Six Dollars ($6,366.00).

#### Annual Fee

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>11 Annual Fee ***</td>
<td>$10,550,000</td>
</tr>
</tbody>
</table>

***Annual Fee agreed upon by the parties

Total gallons of sewage received:

- 2,247,852,000 2016-2017
- 2,217,890,000 2017-2018
- 2,467,820,000 2018-2019
- 2,230,536,000 2019-2020
- 1,977,504,000 2020-2021

2022 5-year average of gallons of sewage received: 2,228,320,400
EXHIBIT E

UNIFORM PRETREATMENT LAWS FOR IAWWTF
EXHIBIT F

GOVERNING BODY RESOLUTIONS

(to be added)
MULTIJURISDICTIONAL PRETREATMENT AGREEMENT
BETWEEN
CITY OF ITHACA, TOWN OF ITHACA, TOWN OF DRYDEN AND
VILLAGE OF CAYUGA HEIGHTS

This Agreement is entered into this _____ day of __________, 2022, between the City of Ithaca, Tompkins County, New York, Town of Ithaca, Tompkins County, New York, Town of Dryden, Tompkins County, New York, and Village of Cayuga Heights, Tompkins County, New York (hereinafter jointly referred to as the "Parties").

RECITALS

1. The City of Ithaca, Town of Ithaca and Town of Dryden (hereinafter jointly referred to as the “IAWWTF Owners”) jointly own and operate the Ithaca Area Wastewater Treatment Facility (“IAWWTF”).

2. Pursuant to a separate agreement with the IAWWT Owners, the Village of Cayuga Heights will utilize the IAWWT to treat some of the wastewater originating in the “Old Village” area of the Village of Cayuga Heights.

3. Facilities located in or that may locate in the “Old Village” area of the Village of Cayuga Heights may contribute wastewater that includes industrial waste to the municipal sewer system, and at times that wastewater will flow to the IAWWT. Facilities contributing industrial wastewater are hereinafter referred to as industrial users.

4. The IAWWT Owners must implement and enforce a pretreatment program to control discharges from all IAWWT industrial users pursuant to requirements set out in 40 CFR Part 403. In this Agreement, the Village of Cayuga Heights agrees to adopt a sewer use law that subjects the industrial users within its boundaries whose wastewater discharges are capable of flowing to the IAWWT to the necessary pretreatment controls, and to implement and enforce that sewer use law.

AGREEMENT

1A. The Village of Cayuga Heights will adopt and diligently enforce a sewer use law applicable to IAWWT users within its boundaries whose wastewater discharges are capable of flowing to the IAWWT, with pretreatment provisions that are no less stringent than and are as broad in scope as the uniform pretreatment sewer use laws of the IAWWT Owners (City of Ithaca Code Chapter 264; Town of Ithaca Code Chapter 216; Town of Dryden Code Chapters 222 and 257. The Village of Cayuga Heights will forward to the IAWWT Owners for review a draft of the its proposed sewer use law applicable to IAWWT users within sixty (60) days of the effective date of this Agreement. The Village of Cayuga Heights will adopt its revised sewer use law within sixty (60) days of receiving approval from the IAWWT Owners of its content.

B. Whenever the IAWWT Owners revise their pretreatment sewer use laws, they will forward a copy of the revisions to the Village of Cayuga Heights. The Village of Cayuga Heights will adopt revisions to its sewer use law applicable to IAWWT users that are at least as stringent as those adopted by the IAWWT Owners.
Owners. The Village of Cayuga Heights will forward to the IAWWTF Owners for review its proposed revisions within sixty (60) days of receipt of the IAWWTF Owners’ revisions. The Village of Cayuga Heights will adopt its revisions within sixty (60) days of receiving approval from the IAWWTF Owners of its content.

C. Within sixty (60) days of the effective date of this Agreement, the Village of Cayuga Heights will adopt and diligently enforce pollutant specific local limits applicable to IAWWTF users within its boundaries that address at least the same pollutant parameters and are at least as stringent as the local limits enacted by the IAWWTF Owners. If the IAWWTF Owners make any revisions or additions to the IAWWTF’s local limits, they will forward to the Village of Cayuga Heights a copy of such revisions or additions within sixty (60) days of enactment thereof. The Village of Cayuga Heights will adopt any such revisions or additions within sixty (60) days of receipt thereof.

2.A. The Village of Cayuga Heights will take all actions necessary to ensure that industrial users within its boundaries that discharge to the IAWWTF are subject to an approved pretreatment program to the extent required by 40 CFR 403.8, including the performance of all technical and administrative duties necessary to implement and enforce its sewer use law against IAWWTF industrial users located in its jurisdiction. The Village of Cayuga Heights will: (1) update the industrial waste survey; (2) issue permits to all industrial users of the IAWWTF required to obtain a permit; (3) conduct inspections, sampling, and analysis; (4) perform enforcement activities; and (5) perform any other technical or administrative duties the Parties deem appropriate. In addition, the Village of Cayuga Heights will take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination.

B. The Village of Cayuga Heights will maintain current information on IAWWTF industrial users located in its jurisdiction. The Village of Cayuga Heights will update the industrial waste survey by January 1 of each year for IAWWTF industrial users located in its jurisdiction. The Village of Cayuga Heights will forward a copy of this survey to the IAWWTF’s Chief Operator within five (5) days of its completion.

C. Whenever a new IAWWTF industrial user proposes to begin operations in the Village of Cayuga Heights, or any time an existing IAWWTF industrial user proposes to increase its discharge by at least twenty percent (20%) or 5,000 gallons per day, whichever is greater, or proposes to change its discharge, or any time it is requested by the IAWWTF Owners, the Village of Cayuga Heights will require that such industrial user respond to an industrial user questionnaire supplied by the IAWWTF. Such response shall be due prior to any proposed implementation and (where applicable) permit issuance by the Village of Cayuga Heights’ Chief Operator, or, if the IAWWTF Owners request the questionnaire, within fifteen (15) days of the IAWWTF Owners’ request. The Village of Cayuga Heights will forward a copy of the completed questionnaire immediately upon receipt to the IAWWTF’s Chief Operator for review.

D. The Village of Cayuga Heights will provide the IAWWTF Owners or their designees access to all records or documents relevant to the pretreatment program for any IAWWTF industrial user located in the Village of Cayuga Heights.

E. The Village of Cayuga Heights will inspect and sample all IAWWTF industrial users located in its jurisdiction each year. The Village of Cayuga Heights will
submit advance written notice of scheduled inspections to the IAWWT’s Chief Operator sufficient to provide the opportunity for IAWWT personnel to attend all inspections. If an inspection is in response to an emergency situation and such notice is not possible, the Village of Cayuga Heights will make every effort to informally notify the IAWWT of the impending inspection so IAWWT personnel may attend. The Village of Cayuga Heights will forward copies of all inspection reports to the IAWWT’s Chief Operator within fourteen (14) days of the inspection. The Village of Cayuga Heights will submit to the IAWWT its procedures for sampling and analyses, including all procedures in place for quality assurance and quality control. All procedures will conform to those set out in 40 CFR Part 136, except as otherwise required by the U.S. Environmental Protection Agency.

F. The IAWWT may, with notice to the Village of Cayuga Heights, conduct inspections and sampling at any IAWWT industrial user’s facility located within the Village of Cayuga Heights, as it deems necessary.

G. The Village of Cayuga Heights will issue permits to all IAWWT industrial users required to be permitted under its sewer use law located in its jurisdiction. Permits must be issued prior to any discharge that is capable of flowing to the IAWWT. Permits for IAWWT industrial users must contain, at a minimum, appropriate effluent limitations, monitoring and reporting requirements, a statement of duration, a statement of nontransferability, a statement of applicable civil and criminal penalties, and any other conditions requested to be included in the permit by the IAWWT. After the Village of Cayuga Heights drafts a permit, it will forward a copy thereof to the IAWWT’s Chief Operator for review and comment at least sixty (60) days prior to the expected date of issuance. Within forty-five (45) days of receipt of the proposed permit, the IAWWT will either approve the permit or request the Village of Cayuga Heights to make additions, deletions, or changes. No permit will be issued if the IAWWT objects.

H. The Village of Cayuga Heights will submit a monthly report to the IAWWT’s Chief Operator on the compliance status of each IAWWT significant industrial user located within its jurisdiction and any enforcement response taken or anticipated. Such report will include the time frames for initial enforcement actions, as well as any subsequent enforcement actions.

I. The Village of Cayuga Heights will enforce the provisions of its sewer use law and permits applicable to IAWWT users. In the event the Village of Cayuga Heights fails to take adequate enforcement action against noncompliant IAWWT users in the Village of Cayuga Heights on a timely basis, the IAWWT Owners or their designees will take such action on behalf of and as agent for the Village of Cayuga Heights.

3. The IAWWT Owners or their designees may take emergency action, whenever they deem necessary, to stop or prevent any discharge to the IAWWT which presents, or may present, an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination. The IAWWT Owners will provide informal notice to the industrial user and the Village of Cayuga Heights of their intent to take emergency action prior to taking action. The opportunity to respond, however, may be limited to a hearing after the emergency powers of the IAWWT Owners have been exercised.

4. The Village of Cayuga Heights shall not allow an industrial user located outside the jurisdictional boundaries of the Village of Cayuga Heights to discharge into the
IAWWTF via the Village of Cayuga Heights’ sewer system. The foregoing shall not apply to any users located in the Town of Ithaca or Town of Dryden that discharge into the IAWWT via the Village of Cayuga Heights sewer system, because these Towns are co-owners and operators of the IAWWT and already have sewer use laws in place that regulate IAWWT users within their jurisdictions.

5. The Village of Cayuga Heights will indemnify the IAWWT Owners for all damages, fines, and costs either incurred as a result of industrial waste discharged to the IAWWT from users located within the Village of Cayuga Heights or from the failure of the Village of Cayuga Heights to comply with this Agreement.

6.A. If any term of this Agreement is held to be invalid in any judicial action, the remaining terms of this Agreement will be unaffected.

B. The Parties will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 et seq.) and the rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but in any event such review and necessary revisions shall occur at least every three (3) years on a date to be determined by the Parties.

C. The IAWWT Owners may terminate this Agreement by providing one (1) year’s written notice to the Village of Cayuga Heights. All benefits and obligations under this Agreement will cease one (1) year from receipt of such notice. If notice of termination is given pursuant to this paragraph, the Parties will substitute a new agreement to replace this Agreement, unless one or more of the agreements listed in Paragraph 7 below permitting the Village of Cayuga Heights to send wastewater to the IAWWT are also terminated.

7. This Agreement shall become effective on the date it is fully executed. Unless terminated sooner as provided in this paragraph or in Paragraph 6.C above, the term of this Agreement shall end on December 31, 2025. The Parties may agree in writing to renew this Agreement for additional terms. A Party that does not intend to renew shall so notify the other Parties at least one (1) year before the end of the then-current term. Notwithstanding the foregoing, this Agreement shall automatically terminate if one or both of the following agreements terminate and are not substituted by new agreement(s): the Intermunicipal Wastewater Agreement dated December 31, 2003, or the 2022 plant to plant agreement between the Village of Cayuga Heights and the IAWWT Owners.

8. This Agreement constitutes the entire Agreement of the Parties. It may be amended only by the written consent of each of the Parties, with each Party executing and acknowledging the document containing the amendment through its duly authorized representative.

9. This Agreement shall be governed by the laws of the State of New York.

10. Each Party represents and warrants that (a) this Agreement has been presented to its governing body; (b) its governing body has approved this Agreement by a majority vote of the full possible voting strength of that governing body; and (c) if required, all steps by way of public hearings and/or referendum or otherwise have been taken by the time of execution of this Agreement. Resolutions of each governing body approving this Agreement are attached to this Agreement as Exhibit A.

11. No Party may assign or transfer its rights and interests in this Agreement to another entity without the prior written consent of all of the other Parties.
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and sealed with their corporate seals on the day(s) and year set forth below.
CITY OF ITHACA

Dated: _________________________  By: ________________________________
Laura Lewis, Acting Mayor
City of Ithaca

STATE OF NEW YORK)
COUNTY OF TOMPKINS) ss.:  

On the ___ day of _____________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Laura Lewis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

___________________________________
Notary Public
TOWN OF ITHACA

Dated: ________________

By: _____________________________

Rod Howe, Supervisor
Town of Ithaca

STATE OF NEW YORK)
COUNTY OF TOMPKINS) ss.:  

On the ___ day of _____________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Rod Howe, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

___________________________________
Notary Public
TOWN OF DRYDEN

Dated: ________________________  By: _____________________________

Jason Leifer, Supervisor
Town of Dryden

Dated: ________________________  By: _____________________________

Dan Lamb, Councilperson
Town of Dryden

Dated: ________________________  By: _____________________________

Jim Skaley, Councilperson
Town of Dryden

Dated: ________________________  By: _____________________________

Loren Sparling, Councilperson
Town of Dryden

Dated: ________________________  By: _____________________________

Leonardo Vargas-Mendez, Jr.,
Councilperson
Town of Dryden

STATE OF NEW YORK)  
COUNTY OF TOMPKINS)       ss.:

On the ___ day of _____________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Jason Leifer, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

_____________________________
Notary Public
STATE OF NEW YORK)
COUNTY OF TOMPKINS)   ss.:

On the ___ day of ______________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Dan Lamb, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

_____________________________
Notary Public

STATE OF NEW YORK)
COUNTY OF TOMPKINS)   ss.:

On the ___ day of ______________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Jim Skaley, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

_____________________________
Notary Public

STATE OF NEW YORK)
COUNTY OF TOMPKINS)   ss.:

On the ___ day of ______________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Loren Sparling, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

_____________________________
Notary Public

STATE OF NEW YORK)
COUNTY OF TOMPKINS)   ss.:

On the ___ day of ______________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Leonardo Vargas-Mendez, personally known to
me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

____________________________________

Notary Public
VILLAGE OF CAYUGA HEIGHTS

Dated: ________________________  By: _____________________________
                           Linda Woodard, Mayor
                           Village of Cayuga Heights

STATE OF NEW YORK)  
COUNTY OF TOMPKINS)    ss.:  

   On the ___ day of __________ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Linda Woodard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public
EXHIBIT A
GOVERNING BODY RESOLUTIONS
[to be attached]
5.1 Amendment to Personnel Roster – DPW – Administrative Staff

WHEREAS, budget reductions during the COVID-19 pandemic reduced the number of administrative and financial staff in the Department of Public Works, creating a significant increase in workload and responsibility for three Financial Management Assistants (FMAs) in the Water & Sewer, Streets & Facilities, and Engineering/Parking Divisions; and

WHEREAS, in April 2021, in recognition of the increased workload and responsibility, the FMAs (Grade 6 Admin Unit) were promoted to Administrative Assistant (Grade 8 Admin Unit) using available funds at the time; however, the workload and responsibility for these three employees still exceeds the level expected from an Administrative Assistant position; and

WHEREAS, at Streets & Facilities and City Hall, the Administrative Assistants are currently performing work that is typically performed by Administrative Coordinators in other City departments; and

WHEREAS, at Water & Sewer, the Administrative Assistant currently supervises two other administrative staff along with managing an increased workload and responsibilities, which is typically performed by an Office Manager in other City departments; now therefore be it

RESOLVED, that the personnel roster of the Department of Public Works be amended as follows, effective June 14, 2023:

Add: one (1) Office Manager
Add: two (2) Administrative Coordinators
Defund: three (3) Administrative Assistants

and be it further

RESOLVED, that the Administrative Assistant positions shall remain on the DPW personnel roster in an unfunded capacity until such time as the employees successfully complete the civil service examination process for the new positions, at which time the Administrative Assistant positions shall be abolished, and be it further

RESOLVED, that the above changes shall be funded by using existing funds in the 2023 DPW budget, derived from currently vacant funded positions in accounts A5651, A5111, F8311, and G8111.
Date: January 4, 2023

To: Civil Service Commission
    Common Council

From: Michael Thorne, Superintendent of Public Works

Re: New Administrative Coordinator and Office Manager Positions in DPW

Dear Commission and Council Members,

Budget reductions during the COVID-19 pandemic reduced the number of administrative and financial staff in the Department of Public Works. The Manager of Fiscal Operations and the Executive Assistant positions were furloughed in 2020 and later eliminated in the 2021 budget, creating a significant increase in workload and responsibility for three Financial Management Assistants (FMAs) in the Water & Sewer, Streets & Facilities, and Engineering/Parking Divisions. In April 2021, in recognition of the increased workload and responsibility, the FMAs (Grade 6 Admin Unit) were promoted to Administrative Assistant (Grade 8 Admin Unit).

Funding for the promotions became available at that time from the resignation and defunding of a part-time FMA position. However, the workload and responsibility for these three employees still exceeds the level expected from an Administrative Assistant position. At Streets & Facilities, the Administrative Assistant provides support for nearly 70 employees, and at City Hall, the Administrative Assistant supports both the Engineering and Parking Divisions as well as the Superintendent’s office, representing 30 employees. In other City departments, this level of responsibility is typically performed by Administrative Coordinators. At Water & Sewer, the Administrative Assistant provides support for over 50 employees, and also supervises two other FMAs. This level of responsibility, along with the supervision of others, is typically performed by an Office Manager.

In the 2023 DPW budget, there is sufficient funding for an Office Manager and two Administrative Coordinators once the three Administrative Assistant positions are defunded. The cost differential of approximately $50K will be paid for from minor reductions in seasonal employee salary line items and several anticipated retirements from employees who are at the maximum pay step and would be replaced by employees at lower pay steps. I would like these changes to be effective June 14, 2023, when the employees become eligible for promotion to the new titles.

“An Equal Opportunity Employer with a commitment to workforce diversification.”
5.2 IFD - Approval of Grant and Amendment to Authorized Budget

WHEREAS, The Ithaca Fire Department is responsible for responding to and mitigating hazardous material incidents; and

WHEREAS, the Ithaca Fire Department is the designated Hazardous Materials Response Team for Tompkins County; and

WHEREAS, the Ithaca Fire Department has specialty hazardous materials detection equipment that has reached the end of its useful lifespan and is no longer supported by the manufacturer; and

WHEREAS, the estimated cost to replace the specialty hazardous materials detection equipment is $50,990; and

WHEREAS, the Ithaca Fire Department applied for and was awarded $45,900 through the 2022 Tompkins County Community Recovery Funds Grant; and

WHEREAS, the Ithaca Fire Department receives New York State Division of Homeland Security Hazardous Materials Grant Funding to pay for the balance of the cost of the hazardous materials detection equipment; now, therefore be it

RESOLVED, That Common Council authorize the Ithaca Fire Department to accept the Tompkins County Recovery Fund Grant for $45,900 to purchase specialized hazardous material detection equipment, and be it further

RESOLVED, that Common Council authorizes the City Controller to amend the authorized City Fire Department Budget to purchase the hazardous materials meter at a total cost of $50,990 as follows:

<table>
<thead>
<tr>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase Revenue Account A3410-4089 Federal Funds</td>
<td>$50,990</td>
</tr>
<tr>
<td>Increase Appropriations Account A3410-5225 Other Equipment</td>
<td>$50,990</td>
</tr>
</tbody>
</table>
**QUOTE**

Number: RW11326  
Issue date: Jul 20, 2022 09:39 AM  
Valid until: Jul 12, 2023  
Issued by: Skylar Agnello  
Mobile: (860) 526-7428

---

**Prepared For**

Gary Farwell  
Ithaca Fire Department  
310 W. Green St,  
Ithaca, NY, 14850 United States

---

<table>
<thead>
<tr>
<th>Item &amp; Description</th>
<th>Part Number</th>
<th>Price</th>
<th>Qty</th>
<th>Discount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>ThreatID GLS</td>
<td>200-00-0020</td>
<td>$35,990.00</td>
<td>1</td>
<td>$0.00</td>
<td>$35,990.00</td>
</tr>
</tbody>
</table>

Includes - Full spectrum FTIR spectrometer with hot-swappable batteries. Upgradeable sample interface for solids and liquids, gases or all. Integrated video beneath interface for ease of sample placement/verification of solids/liquids interface cleanliness. Large, hardened touch screen compatible with gloved hands.

ThreatAssist™ Chemical Properties Database - proprietary on-board chemical properties database provides instant access to actionable data on ALL library spectra including: Common name, physical appearance and common uses, IDLH and Vapor pressure as well as ghs hazard class pictograms and NFPA diamonds.

Reachback 1 Year Support Package - free software and library upgrades for life of support package. Full warranty on all parts and labor to repair system. Free loaner system during repair. 24/7/365 access to Ph.D chemists, product engineers and application specialists for spectral interpretation assistance and/or technical support.

Operational training is provided in an online, easy to access format using pre-supplied samples. Training session is recorded for use as refresher training or to train other shifts.

On-site training is available for an additional charge of $2500/day.

---

<table>
<thead>
<tr>
<th>ThreatID Powders/Liquids Module</th>
<th>Part Number</th>
<th>Price</th>
<th>Qty</th>
<th>Discount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>200-00-2001</td>
<td>$15,000.00</td>
<td>1</td>
<td>$0.00</td>
<td>$15,000.00</td>
<td></td>
</tr>
</tbody>
</table>

Solids/Liquids sample interface consisting of a diamond crystal, pressure device and liquids well. This allows the instant analysis of solids, liquids, pastes and gels with no preparation. The interface is positioned over pins and locked into position with no need for alignment.

The Solids/liquids interface is provided with more than 23,000 library spectra including TICS, TIMS, Drugs (including fentanyl derivatives), WMD agents including blister, nerve and next generation agents, pesticides, common consumer products and common mixtures.

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Sub Total $50,990.00

Grand Total $50,990.00

Lead time 6 to 8 weeks from time of order.

Shipping: EXW Danbury

**Terms & Conditions**

Please see www.redwavetech.com for terms and conditions.
5.3 Resolution for Ithaca Area Wastewater Treatment Facility (IAWWTF) – Phase 3 Boiler Replacement

WHEREAS, on June 8, 2022, the Special Joint Committee (SJC) recommended to its municipal boards the approval of emergency funding for the Phase 1 replacement of the non-functional IAWWTF cast iron boiler, for a cost, with contingencies, not to exceed, Six Hundred and Fifty Thousand Dollars ($650,000), and

WHEREAS, municipal partners approved funding for the boiler replacement project on: July 6, 2022 by the City of Ithaca; August 18, 2022 by the Town of Dryden; and August 8, 2022 by the Town of Ithaca, and

WHEREAS, the IAWWTF received a contractor’s price proposal dated June 6, 2022 through Gordian, the accounting firm for the ezIQC program, in the amount of $601,580.56, and

WHEREAS, a purchase order was issued to J.W. Danforth, the approved contractor through the ezIQC program, in the amount of $351,580.56 for mobilization, purchase of the new boiler to ensure that the order would arrive before winter, demolition, and disposal, and

WHEREAS, remaining allowances for the labor, incidental materials, piping modifications, and boiler installation was granted by the SJC on October 12, 2022 in the amount of Two Hundred and Fifty Thousand Dollars ($250,000), which has since been referred to as “Phase 2”, and

WHEREAS, J.W. Danforth has provided a Phase 2 cost proposal in an amount, not to exceed $223,180.16, and

WHEREAS, work will be authorized for Phase 2 leaving a fund balance, of $75,239.28, and

WHEREAS, during Phase 1 construction, Danforth has discovered many age, process, and quality issues with existing infrastructure, and

WHEREAS, a Phase 3 cost proposal in the amount of $289,306.97 has been provided by J.W. Danforth outlining this additional work, which includes, pump replacements, boiler exhaust flue modifications, enhancements to combustion air intakes, glycol feeder improvements, automated controls, plumbing modifications for heat control, bonding, and engineering services, and

WHEREAS, staff endorses the funding of Phase 3 improvements, in the interests of better plant operational efficiency, and longevity, and

WHEREAS, in its January 11, 2023 meeting, the Special Joint Committee recommended that its municipal boards expand the Boiler Replacement Project Scope to include pump replacements, boiler exhaust flue modifications, enhancements to combustion air intakes, glycol feeder improvements, plumbing modifications for heat control, and automated controls, for a cost, with contingencies, not to exceed Two Hundred Fifty Five Thousand Dollars ($255,000); now, therefore, be it

RESOLVED, that Capital Project CP 423J, Boiler Replacement Project, be hereby amended by an amount not to exceed $255,000 for the purposes of funding said replacements, modifications and improvements for a new total project authorization of $905,000, and, be it further

RESOLVED, that the City of Ithaca share of the approved amount will be One Hundred Forty Five Thousand Seven Hundred and Seven Dollars ($145,707), and, be it further

RESOLVED, that funds necessary for said contract amendment be derived from the following sources as determined by the City Controller: operating funds, fund balance serial bonds, capital reserves, grants and Federal stimulus funds.
5.4 Amendment to Personnel Roster – City Chamberlain’s Office

WHEREAS, the Chamberlain’s Office is planning for the anticipated retirement of the Deputy City Chamberlain in 2023, and

WHEREAS, the succession plan includes hiring a temporary second Deputy City Chamberlain by May 2023 for the remainder of the year to ensure the smooth transition of information and duties; and

WHEREAS, the Chamberlain’s Office is working closely with HR; and the Ithaca Civil Service Commission will review the proposed addition of the temporary second Deputy City Chamberlain position at their February 15, 2023 meeting; now, therefore, be it

RESOLVED, that subject to the approval of the Ithaca Civil Service Commission, the Personnel Roster of the City Chamberlain’s Office be amended as follows:

Temporarily Add: One (1) Additional Deputy City Chamberlain 40 hours

and be it further

RESOLVED, that the funding for this change shall be derived from monies authorized in Restricted and Unrestricted Contingency as part of the 2023 Authorized Budget and shall not exceed $52,000, and be it further

RESOLVED, that Common Council hereby directs the Controller to move funds from Restricted and Unrestricted Contingency to the Chamberlain’s Office as necessary to account for said roster amendment.
WHEREAS, a Project for the Hector Street over Linderman Creek Culvert Rehabilitation, P.I.N. 375701 (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 80% Federal funds and 20% 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 the costs of Preliminary Engineering/Design; and

WHEREAS, preliminary engineering and design are exempt from further environmental review as Type II actions, now, therefore, the Common Council, duly convened does hereby

RESOLVED, that the Common Council hereby approves the above-subject project, subject to further environmental review of construction; and it is hereby further

RESOLVED, that the 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 Preliminary Engineering/Design work for the Project or portions thereof, and it is further

RESOLVED, that the sum of $150,000 is hereby appropriated from the issuance of serial bonds and made available to cover the cost of participation in the above phase of the Project, and it is further

RESOLVED, that Common Council hereby creates Capital Project # ____, Hector Street over Linderman Creek Culvert Rehabilitation, to include the Project costs of $150,000, and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Ithaca shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the NYSDOT thereof, and it is 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 necessary certifications or reimbursement requests for Federal 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 it is further

RESOLVED, that this project be undertaken with the understanding that the final cost of the Project to the City of Ithaca will be roughly 20% of said portion, currently estimated at $30,000 of the $150,000 authorized for this portion of the project, in monies and in-kind services as managed by the Superintendent of Public Works and monitored by the City Controller, 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 it is further

RESOLVED, this Resolution shall take effect immediately.
To: City Administration Committee  
From: Johnathan Licitra, Civil Engineer  
Date: July 14, 2016  
Re: Master Agreement for Hector Street over Linderman Creek Culvert Rehabilitation

Please find enclosed a resolution authorizing a new federal-aid, capital project to rehabilitate or reconstruct a very large culvert in the 900 block of Hector Street (NYS 79 touring route).

The project scope includes rehabilitation or replacement of a large diameter culvert in the 900 block of Hector. The existing 80-foot-long culvert is an unusual mix of concrete box culvert and round corrugated metal pipe. As part of the recent sidewalk project, a new headwall was installed on the inlet side with an extension to the existing round pipe—so the newer sidewalk from 2020 will likely not be disturbed. The majority of the culvert under the road has gaps and rust in the 48” metal pipe and large separations between the 48” concrete box walls. City of Ithaca Streets and Facilities asked Engineering to take on this somewhat complicated project and we have been able to get it on the Transportation Improvement Program (TIP) for Federal Aid.

Though the City has to front the monies for this project, 80% of the project costs are reimbursable from federal and state funding. At this point, I am only asking for approval for the design phase of the project. Once the design work is complete, construction funds will be made available and I will return for further approvals. As an engineering study, this project, so far, is a Type II action in accordance with the City and State environmental review laws. The environmental review of construction activities will be included in the scope of work for design and preliminary engineering.
MEMORANDUM

Date: September 24, 2021

From: City Governance Structure Working Group
Aaron Lavine, City Attorney
Schelley Michell-Nunn, Director of Human Resources
Dan Cogan, Former Chief-of-Staff
Donna Fleming, Rob Gearhart, Deb Mohlenhoff, Seph Murtagh – Common Council

RE: Executive Summary and FAQ for City Manager Proposal

On January 6 Mayor Myrick announced a task force to “Take on a deep dive reforming our elected officials, starting with the Mayor” because “We need a change, either moving in the direction of a City Manager, or some equally profound reform in the executive branch.”

The Mayor addressed the City Administration meeting on January 27 and noted some known problems in the current structure:

- The current structure is an odd blend of traditional “weak mayor” and “strong mayor” systems insofar as the Mayor supervises people that he does not have the authority to terminate
- The Mayor’s salary is not commensurate with the number of direct reports and responsibilities assigned to the mayor under our current structure

He concluded that “this might be the year to take a deep dive in to see if we can fix this.” At this meeting the composition of the task force was announced.

Timeline and Work Performed
The task force began meeting via Zoom soon after and met almost every week. The following is an outline of our conversations, work, and progress:

January and February – discussion of current government structure and alternative models; sharing and review of material from the International City Management Association, the 2011 report from the Novak Consulting Group, a 2011 article in the Ithaca Times, and a 2001 study by students in Cornell’s Institute for Public Affairs

March 5- the group had a conversation with Jason Molino, then the Tompkins County Administrator and formerly the City Manager of the City of Batavia NY.

April - Dan talked with representatives of the International City Management Association and shared a model city charter recommended by them

April 28 – Deb Mohlenhoff presented the proposal for discussion at the City Administration meeting

May 11 – Donna talked with Leslyn McBean Clairborne, current Chair of the Tompkins County Legislature and also a City employee and City resident

June 14 – committee discussed Ari’s first draft of local law at our only in-person meeting!

June 30 – Donna talked with Martha Robertson, former Chair of the Tompkins County Legislature
June & July – Donna interviewed the Mayors of Elmira, Watertown, Corning, Newburgh, and Auburn and the City Council president of Long Beach. All of these cities have professional City Managers.

July 27 – message sent to all Senior Staff summarizing the proposal and asking for comments

August 3 – Dan Cogan and Donna Fleming interviewed Alan Cohen, Mayor of Ithaca from 1996 to 2003 and now Assistant County Administrator of Broward County FL

August 3 – Donna interviewed Carolyn Peterson, Mayor of Ithaca from 2004 to 2011

August 17 – Deb Mohlenhoff presented our recommendation at the Senior Staff Meeting

August 25 – Draft local law was discussed at City Administration meeting

August – Donna contacted most Department Heads to review the proposal and ask for feedback

SUMMARY OF RECOMMENDATIONS

According to our current charter, the elected Mayor is responsible for managing the operations of the City, leading Common Council meetings, appointing volunteers, and serving as the City’s political and ceremonial figurehead. This is too much responsibility for one person, and an organization of our size requires a professional manager.

We recommend that the City of Ithaca adopt the Council-Manager form of government, which is used by the majority of cities in the US of similar size. In this structure, the Common Council will hire a professional City Manager to oversee the operations of the City, supervise department heads, manage the budget, and implement policies. A part-time Mayor will be elected at-large by voters in the City. The Mayor will lead Common Council meetings, advocate for new policies, appoint committees, boards, and task forces, and serve in a ceremonial role in public celebrations as well as during crises. The Mayor will be a voting member of Common Council.

We recommend that the plan be fully implemented in January 2024 to coincide with the beginning of the next Mayoral term.

DECISIONS TO BE MADE BY COUNCIL PRIOR TO REFERENDUM

There are some open questions:

1) Will the City Attorney be hired and evaluated and possibly terminated by the City Manager or the Common Council? Both models work in other cities

2) Will the Mayor, the City Manager, or a volunteer serve as Chair of the Board of Public Works?
QUESTIONS ABOUT MANAGER-COUNCIL FORM OF GOVERNMENT

Why have an appointed City Manager to manage city operations instead of an elected Mayor?
A full-time City Manager would have the education, credentials, and experience required to administer the City’s operations. The City Manager would have expertise in managing departments and preparing budgets. A professional manager who understands how to motivate and evaluate staff would make the City more responsive to the citizens and would better enable us to hire and retain highly qualified people.

An elected Mayor may or may not know how to manage a complex organization or even be interested in overseeing day-to-day operations of the City. Mayors are elected based on their ideas and visions rather than their administrative skills. This system would separate roles and allow the best qualified person to fill each role.

How is this system better than the current structure, in which we have an elected Mayor and a Chief of Staff?
Ithaca’s mayor is expected to be the chief executive officer of the City as well as the legislative, political, and ceremonial leader. There are too many responsibilities for one person and they demand different kinds of talents. The Chief of Staff is hired by and reports to the Mayor but any authority that the Chief of Staff has, such as supervising department heads, is delegated by the Mayor, which creates confusion about who has true authority to make decisions. An appointed City Manager is politically neutral and will ensure that the policies created by Common Council and the Mayor are implemented. With a City Manager, the consistency, quality, and continuity of the city’s operations will be independent of the election cycle.

Every mayor of Ithaca for the past twenty years has advocated for a significant change in the structure of city government, as the current system cannot provide the citizens of Ithaca the level of service they want and deserve.

Does this system weaken the power of the voters?
To the contrary; this will strengthen the power of voters, as it further empowers all members of Common Council, who will have direct oversight over and the power to dismiss the City Manager. Currently the Chief Executive is held accountable by voters only once every four years, and then only if there is a viable challenger running for Mayor.

Voters will continue to choose the Mayor, who in the new system will be a full voting member of Common Council; currently the Mayor only votes when there is a tie. The Mayor and Council will still be responsible for making laws, setting direction and policy, and determining the financial priorities for the City, which the City Manager will be obligated to follow.

Will this cost the taxpayers more money?
With salary and benefits the Mayor, the Mayor’s executive assistant, and the Chief of Staff cost the City approximately $213,000 in a total City budget is $80M. Under the new structure, the full-time City Manager will earn a bit more than the Chief of Staff and the Mayor will likely earn slightly less than the current Mayor. With a full-time executive assistant to the City Manager the total cost would be approximately the same. And because the City Manager is a professional manager, the City will become more efficient in its operations in the long run.

For comparison, note that Tompkins County pays an Administrator, two deputy administrators, and an executive assistant $655,500 per year to oversee its budget of approximately $190M, and 750 employees in 31 departments serving 105,000 residents.

How will the role of the Mayor be different from the current role?
The chart below summarizes the Mayor’s primary duties under the current code and charter and how they will change in the new system.

<table>
<thead>
<tr>
<th>Current Mayor’s primary duties according to the current charter</th>
<th>Who does this in the new structure?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead the development of policy</td>
<td>Mayor</td>
</tr>
<tr>
<td>Appoint boards and committees</td>
<td>Mayor</td>
</tr>
<tr>
<td>Preside over Common Council meetings</td>
<td>Mayor</td>
</tr>
<tr>
<td>Serve as Chief Executive Officer of the City</td>
<td>City Manager</td>
</tr>
<tr>
<td>Supervise department heads</td>
<td>City Manager</td>
</tr>
<tr>
<td>Negotiate with labor unions</td>
<td>City Manager</td>
</tr>
<tr>
<td>Develop and present annual budget</td>
<td>City Manager</td>
</tr>
<tr>
<td>Chair the capital budget committee</td>
<td>City Manager</td>
</tr>
<tr>
<td>Represent the City to other levels of government</td>
<td>Shared responsibility between City Manager and Mayor</td>
</tr>
<tr>
<td>Make an annual “State of the City” address about accomplishments and goals</td>
<td>Mayor</td>
</tr>
<tr>
<td>Serve as ceremonial leader of the City: attend ribbon cuttings, address the public in times of crisis; represent the City in celebrations</td>
<td>Mayor</td>
</tr>
</tbody>
</table>

**How common is the City Manager role?**

According to the International City/Council Management Association: “More than 120 million people in the USA live in municipalities that operate under the council-manager form. Fifty-four percent of the more than 4,300 US municipalities with populations of 10,000 or more use the form, as do 59% of the 347 municipalities with populations greater than 100,000. More than 800 counties also employ a similar system.” The practice of hiring professional managers became a popular element of reform agendas during the Progressive Era in the early 20th Century as a means to stop corruption, favoritism, and nepotism and to promote efficiency within local governments.

In interviews with Mayors of six cities in New York with this form of government, we heard very positive comments about their experiences.

Tompkins County has basically had a County Manager form of government since 1970, though they refer to their chief executive as the County Administrator. This system has served the citizens of Tompkins County very well for over 50 years.

**How will the City Manager be evaluated?**

Common Council will develop a procedure based on best practices for reviewing the City Manager annually. As the elected leader who will work most closely with the City Manager the Mayor will play a key role in these annual evaluations.
How will the City Manager be removed?
The City Manager will serve at the pleasure of Common Council or may have a contract with a 4 to 5 year term with a clause allowing Common Council to terminate the contract early.

Will there be a Deputy or Assistant City Manager?
It would certainly be necessary to have a designated deputy to serve as City Manager during vacations, incapacitation, or in the event of the City Manager’s termination or resignation. For an organization the size of the City of Ithaca, it is reasonable to have a deputy City Manager, appointed by the City Manager with the approval of Common Council, to assist in managing the city.

How will this change happen?
Common Council will vote on legislation to change the City Charter in 2021. In November 2022 the voters will vote on a referendum. If the change is approved, the search for a manager would begin in 2023, with the goal of having our first City Manager in office on 1 January 2024, aligning with the beginning of the next Mayoral term.

What further planning is needed prior to full implementation?
Before finalizing the job description for the City Manager and hiring a person, we need to decide:

- Whether there should be a residency requirement for the City Manager
- How flexible we should be with the required mix of education and experience and credentials in candidates for the City Manager position
- How we prepare for and manage the transition so that Alderpersons, including the newly-elected Mayor, understand roles and relationships
- Similarly, how to ensure that Department Heads and Senior Staff are prepared for a new form of management
- The annual compensation for the full-time City Manager and the part-time Mayor
- The term of the City Manager’s contract
<table>
<thead>
<tr>
<th>POWERS OF THE MAYOR</th>
<th>UNDER COUNCIL-MANAGER GOVERNMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serve as Chief Executive Officer of the City</td>
<td>City Manager</td>
</tr>
<tr>
<td>Appoint, evaluate and terminate department heads</td>
<td>City Manager</td>
</tr>
<tr>
<td>Appoint City Attorney</td>
<td>*City Manager (with approval of Common Council)</td>
</tr>
<tr>
<td>Serve as presiding officer of the Common Council</td>
<td>Mayor</td>
</tr>
<tr>
<td>Serve as presiding officer of the Board of Public Works</td>
<td>TBD: Could be Mayor or volunteer Chair as for most Boards and Commissions</td>
</tr>
<tr>
<td>Appoint the members of boards and commissions and ad hoc or advisory committees</td>
<td>Mayor</td>
</tr>
<tr>
<td>Monitor the effectiveness and performance of City departments</td>
<td>Mayor</td>
</tr>
<tr>
<td>Make recommendations to Common Council about changes in departments that would decrease costs or improve service, when Council's authorization is required</td>
<td>City Manager</td>
</tr>
<tr>
<td>Prepare an annual budget and, when adopted by the Common Council, monitor compliance with its provisions.</td>
<td>City Manager</td>
</tr>
<tr>
<td>Submit procurement policies to Common Council for approval; implement and monitor those policies</td>
<td>City Manager</td>
</tr>
<tr>
<td>Negotiate labor contracts and make recommendations to Common Council regarding personnel matters</td>
<td>City Manager</td>
</tr>
<tr>
<td>Develop and administer a salary plan for City employees; periodically recommend amendments to the Common Council in order to eliminate inequities, recruiting difficulties and employee turnover</td>
<td>City Manager</td>
</tr>
<tr>
<td>Determine what officer or employee shall exercise powers or perform duties not otherwise assigned by Charter, local law or ordinances of the Common Council</td>
<td>City Manager</td>
</tr>
<tr>
<td>Represent the City to agencies of the federal, state and county governments and regional authorities for the purpose of obtaining funds or services beneficial to the City.</td>
<td>Mayor and/or City Manager</td>
</tr>
<tr>
<td>Represent the City or arrange representation in dealing with private agencies, educational institutions and other bodies which provide funds, services or advice to the city.</td>
<td>Mayor and/or City Manager</td>
</tr>
<tr>
<td>Initiate and direct such activities as will improve the economy of the City and its tax base and</td>
<td>Mayor and/or City Manager</td>
</tr>
<tr>
<td>Task</td>
<td>Responsible Party</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Cooperate with groups outside the City government having the same purposes.</td>
<td>City Manager</td>
</tr>
<tr>
<td>Serve as Chairperson of the interdepartmental Capital Program Committee.</td>
<td>City Manager</td>
</tr>
<tr>
<td>Address the Common Council annually at its first regular meeting in January and at such other times as he/she deems appropriate with respect to the needs and resources of the city</td>
<td>Mayor</td>
</tr>
<tr>
<td>Execute on behalf of the city, when so authorized by the Common Council, all deeds, contracts and other documents to be executed as the acts of the City except as otherwise provided by law.</td>
<td>City Manager</td>
</tr>
<tr>
<td>Declare the existence of an emergency</td>
<td>City Manager</td>
</tr>
<tr>
<td>When authorized by the Common Council or Board of Public Works, execute all deeds, contracts and other papers as the acts of the City, except as otherwise provided by the Local Finance Law.</td>
<td>City Manager</td>
</tr>
<tr>
<td>Administer oaths and take affidavits and acknowledgments.</td>
<td>Mayor</td>
</tr>
<tr>
<td>Appoint members of the IURA and be a member of the IURA (according to NYS General Municipal Law)</td>
<td>Mayor</td>
</tr>
</tbody>
</table>
JOB DESCRIPTION: CITY MANAGER - DRAFT
City of Ithaca, NY

The City of Ithaca, New York has a population of approximately 30,000 and its government comprises 12 departments, over 400 employees, 18 physical facilities, and six bargaining units.

The City Manager will be the chief administrative officer of the City, overseeing the operations and finances of City government and ensuring that federal, state, and municipal laws and policies are implemented in the City and that residents of the City receive a high level of service.

The City Manager leads in incorporating Ithaca’s commitment to social and environmental justice, as well as other adopted values, into the operations, policies and practices of city government. The City Manager appoints and supervises Deputies and other staff necessary to perform the duties of the office. The City Manager is appointed by, is directly responsible to, and serves at the pleasure of the Common Council and Mayor of the City of Ithaca.

SUMMARY OF DUTIES:
The City Manager is responsible for the overall administration of city government. The duties of the office will be to:
• Execute and enforce all resolutions, orders and laws enacted by the City of Ithaca Common Council;
• Delegate the implementation of programs, policies, and initiatives as determined by the Common Council of the City of Ithaca;
• Appoint and remove (subject to consultation with and confirmation by the City of Ithaca Common Council), in conformance with Civil Service law, all department heads;
• Supervise department heads and facilitate collaboration among various departments and agencies to efficiently carry out the directives of Common Council;
• Promote a culture among the city’s employees in which customer focus, data-based decision making, team building, and employee involvement are respected;
• Manage collective bargaining and negotiations with organized employee organizations in the City of Ithaca;
• Obtain estimates of revenue and expenditures from all departments, offices and agencies and prepare, submit and execute an annual budget that reflects effective, efficient and economical management of municipal funds;
• Chair the capital projects review committee
• Recommend to Common Council policies and procedures that will build a positive culture and promote economy, efficiency and a high quality of service;
• Apprise Alderpersons and the Mayor of current and emerging issues; anticipate potential problems and bring them to the attention of Common Council
• Supervise the implementation of contracts for services on behalf of the City;
• Provide adequate insurance and surety bond coverage and/or administer adequate insurance reserves to protect the City from all reasonable risks of loss or damage;
• Develop and maintain the City's Administrative Policy Manual defining the operating policies and procedures of the City;
• Serve as final authority for appeals to the Freedom of Information Officer for the City;
• Provide and coordinate staff services to Common Council, and its committees and task forces;
• Oversee special projects of Common Council;
• Perform all other duties and possess all powers as may be conferred or imposed on the City Manager by the City of Ithaca Common Council;

KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:
• Comprehensive knowledge of the practices and procedures of municipal administration and budgeting
• Strong written communication skills, including report writing, accounting, and public relations;
• Strong oral communication skills, including the ability to analyze complex problems and propose realistic
  solutions clearly and concisely to staff, legislators, and the public
• Ability to separate technical from policy choices and to define the implications of those choices for Common
  Council;
• Ability to plan, direct and supervise the work of others while maintaining good working relationships; ability
  to motivate, coach, and mentor staff as needed
• Tact, integrity, attention to detail, good judgment, and resourcefulness are all required traits;
• Demonstrated commitment to Ithaca’s values of diversity, equity, inclusion, and environmental and social
  justice;
• Proven experience with and commitment to the principles of quality management.

MINIMUM QUALIFICATIONS:
(a) Graduation from an accredited college or university with a Master’s Degree in Business or Public
  Administration or a related field AND eight (8) years of administrative and management experience; OR
(b) Graduation from an accredited college or university with a Bachelor’s Degree in Business or Public
  Administration or a related field AND ten (10) years of administrative or management experience; OR
(c) Any combination of education and experience equal to or greater than that described in (a) and (b) above.

SPECIAL REQUIREMENT: This position is considered to be a public officer. Pursuant to Article 3 of the NYS
Public Officers law, the holder of this position must be at least 18 years old, a United States citizen, a resident
of the City of Ithaca, and must not have been convicted of a felony.
City of Ithaca
Government Structure

WORKING GROUP: CHARGED IN JANUARY OF 2021 TO REVIEW CITY STRUCTURE
In the January 2021 State of the City, Mayor Myrick tasked a working group by stating:

"I am asking this group to study and make recommendations to reform our City government. This group will explore alternative ways of structuring the office of the City's Chief Executive, possibly leading to the creation of a City Manager. The next major step in this process will be our ten-year redistricting, which may lead to a change in the form of Common Council as well."
REVIEWS THREE AREAS

01. Change in the form/structure of City Government
02. Increase or Reduction in Mayor’s Role, Responsibility, Salary, etc.
03. Change in the structure of the staffing of the Mayor’s Office
WHAT IS THE CURRENT STRUCTURE?

- Mayor is the Chief Executive Officer
- Acting Mayor and Alternate Acting Mayor are appointed from the Common Council by the Mayor
- Mayor chairs the Common Council, only votes in the event of a 5-5 tie

**Current Staffing & Salary:**
- Mayor: $58,000
- Chief of Staff: $120,000
- Executive Assistant: $46,350
- City Attorney, Chief of Staff, and Executive Assistant are "at-will" Mayoral appointments.

All Department Heads report directly to the Mayor.
Mayor-Council (closest to ours)

- Mayor is elected separately from the council, is often full-time and paid, with significant administrative and budgetary authority.
- Depending on the municipal charter, the mayor could have weak or strong powers.
- Council is elected and maintains legislative powers.
- Some cities appoint a professional manager who maintains limited administrative authority.

This is the second most common form of government. It is most common in older, larger cities, or in very small cities.
WHAT ARE FORMS OF GOVERNMENT?

Council-Manager

- City council oversees the general administration, makes policy, sets budget
- Council appoints a professional city manager to carry out day-to-day administrative operations
- Often the mayor is chosen from among the council on a rotating basis

This is the most common form of government. According to surveys by the International City/County Management Association (ICMA), this form of government has grown from 48% usage in 1996 to 55% usage in 2006. It is most popular in cities with populations over 10,000.
LESS COMMON FORMS OF GOVERNMENT

Commission

- Voters elect individual commissioners to a small governing board
- Each commissioner is responsible for one specific aspect, such as fire, police, public works, health, finance
- One commissioner is designated as chairman or mayor, who presides over meetings
- The commission has both legislative and executive functions

The commission form of city government is the oldest form of government in the U.S., but exists today in less than 1% of cities.

Town Meeting or Representative Town Meeting

- All voters meet to decide basic policy and elect officials to carry out those policies (Town Meeting)
- Voters select a large number of citizens to represent them at town meetings, where only they can vote (Representative)

These forms of government are uncommon and make up only a total of 6% of city governments.

https://icma.org/topics/form-government
WHAT ARE THE CHALLENGES?

The Mayor currently:

- Manages 400+ employees in 11 departments with 12 direct reports
- Oversees 18 city facilities covering a wide range of activity and infrastructure
- Prepares and administers a $79M budget

- An elected Mayor is not required to have relevant administrative experience
- Turnover in 4-year terms leads to instability in administrative oversight and accountability
- Chief of Staff is at-will and only has supervisory authority as delegated by the Mayor (which leads to lack of clarity in reporting structure)
- Mayor's compensation doesn't align with responsibilities (less than half of Chief of Staff and most Directors)
OUR RECOMMENDATIONS

• **Hire a City Manager**
  ◦ City Manager becomes Chief Executive
  ◦ City Manager would report to full Council
  ◦ Council would hire/fire City Manager
  ◦ City Manager would prepare the City Budget

• **Make the Mayor a voting member of Council**
  ◦ Mayor would still chair Council and set the agenda
  ◦ Mayor would remain the Chief Elected Official

• **Determine appropriate level staffing to support new structure**
<table>
<thead>
<tr>
<th>Appointed by</th>
<th>Mayor</th>
<th>Common Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appointing/Disciplinary Authority</td>
<td>None</td>
<td>Department Heads &amp; Direct Reports</td>
</tr>
<tr>
<td>Scope of Responsibilities</td>
<td>Supporting Mayor's Vision</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>Education Level</td>
<td>Bachelor's recommended</td>
<td>Master's Level</td>
</tr>
<tr>
<td>Years of Experience</td>
<td>None</td>
<td>At least 3 at managerial level</td>
</tr>
<tr>
<td>Budget Responsibility</td>
<td>Assist Mayor to submit to Council</td>
<td>Prepare and submit to council</td>
</tr>
<tr>
<td>Staff Support</td>
<td>part time Mayor's assistant</td>
<td>Full admin &amp; at least 2 prof staff</td>
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TIMELINE & NEXT STEPS

August 2021: Discussion/Review of Legislation at City Administration

September 2021: Final Edits & Vote at City Administration

October 2021: Vote at Common Council

November 2022: Referendum on the ballot
4.5 A local law entitled “Amendment of City Charter and Code to Enable the Common Council to Create a City Manager Position”

WHEREAS, under our current charter, the Mayor is elected every four years and serves as the chief executive officer of the City, the political leader of the City, and the Chair of Common Council; and

WHEREAS, as chief executive officer the Mayor oversees 11 departments, a budget of approximately 80 million dollars, 400 employees, and six bargaining units; and

WHEREAS, As political head, the Mayor appoints committees, represents the City to other levels of government, and articulates a vision for the future and values of the City; and

WHEREAS, the Common Council and the Mayor believe that it is in the best interests of the City to shift to an alternative form of government that would allow Common Council to select and hire a trained, experienced person in the role of City Manager to be the chief executive officer of the City and would allow the electorate to choose a Mayor who is the political leader of the City as well as a voting member and Chair of Common Council; now, therefore

Local Law No. __-2021

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

Section 1. Legislative findings, intent, and purpose.
The Common Council makes the following findings:

1. The current governmental structure of the City does not fully serve the best interests of the City, insofar as:
   • An elected Mayor may not have experience administering a large complex organization
   • The Mayor’s salary is not commensurate with this level of responsibility and is significantly lower than the salaries of the department heads managed by the Mayor
   • Under this prevailing system, the Mayor is accountable to the electorate every four years
   • Though elected, the Mayor only votes with the Council to break a tie
   • Even if the Mayor has a Chief of Staff that person’s role is ambiguous insofar as department heads do not report to and are not evaluated or hired by the Chief of Staff
   • Furthermore, an appointed Chief of Staff reports directly to the Mayor and may be replaced upon the election of a new Mayor

2. An alternative form of government would allow Common Council to select and hire a trained, experienced person in the role of City Manager to be the chief executive officer of the City and would allow the electorate to choose a Mayor who is the political leader of the City as well as a voting member and Chair of Common Council.

3. Advantages of this alternative form of government for the City of Ithaca include:
An appointed City Manager is hired solely for educational and professional credentials and compensated accordingly.

An appointed City Manager is accountable to Common Council every day and is responsible for implementing policy formed by elected Alderpersons, reflecting the will of the citizens.

An appointed City Manager with long service offers stability to City government.

The Mayor is a voting member of Common Council.

There is a distinction between the administrative and political functions in City leadership.

Based upon the above findings, the intent and purpose of this Local Law is to create the position of an appointed City Manager that will report directly to the Common Council, which shall continue to be chaired by the Mayor, and to detail the authorities and responsibilities of the City Manager as chief executive officer of the City, while preserving to the Mayor the role as political leader, but not administrative head, of the City.

Section 2. Charter Amendments

This Section 2 amends only the following provisions of the City of Ithaca Charter, with the remainder of the provisions unchanged.

(a) The text of Section C-5 (C) and (D) of the Ithaca City Charter, titled “Elective and appointive officers” is amended as follows:

§ C-5 Elective and appointive officers.

C. The appointed officers of the City shall be:

(1) Members of boards, councils and commissions: the six Commissioners of the Board of Public Works, the nine members of the Public Safety and Information Commission, the nine members of the Community Life Commission, the nine members of the Mobility, Accessibility, and Transportation Commission, the nine members of the Parks, Recreation, and Natural Resources Commission, the ten members of the Workforce Diversity Advisory Committee, the three members of the Building Code Board of Appeals, the five members of the Board of Zoning Appeals, the three members of the Civil Service Commission, the nine members of the Community Police Board, the five members of the Design Review Board, the three members of the Examining Board of Electricians, the three members of the Examining Board of Plumbers, the five members of the Housing Board of Review, the five members of the Ithaca Housing Authority, the seven members of the Ithaca Landmarks Preservation Commission, the five members of the Ithaca Urban Renewal Agency, the seven members of the Planning and Development Board, and the five members of Pegasys Access Oversight Committee, all of whom shall be appointed by the Mayor in accordance with the provisions of the Charter or the ordinances or resolutions which create such boards, commissions or councils.

(2) Officers who serve at the pleasure of the City Manager in accordance with and subject to the provisions of Section C-13 [Mayor]: a City Attorney, who shall serve as the head of the City Attorney’s Office.

(3) [Officers appointed by the Mayor pursuant to State Judiciary Law: a City Court Judge. Reserved.]
(4) Officers appointed by the City Manager [Mayor] with approval of Common Council.

(a) Officers who serve as the heads of their respective departments, and who are appointed by the City Manager [Mayor] with the approval of Common Council: City Clerk, Controller, Director of Human Resources, Director of Planning and Development, Fire Chief, Greater Ithaca Activities Center Director, Police Chief, Superintendent of Public Works, Youth Bureau Director.

(b) Officers who are appointed by the City Manager [Mayor] with the approval of Common Council to a specific department: City Chamberlain as appointed to the Office of the City Controller; Building Commissioner as appointed to the Department of Planning, Building, and Development.

(5) Officers who serve as the deputies or assistant department heads of their respective departments, and who are appointed by their respective department heads: Assistant City Attorney(s), Assistant Superintendent(s) of Public Works, Deputy City Chamberlain, Deputy City Clerk, Deputy Controller, Deputy Director of Human Resources, Deputy Director of Economic Development, Deputy Director of Planning and Development, Deputy Fire Chief(s), Deputy Greater Ithaca Activities Center Director, Deputy Police Chief(s), Deputy Youth Bureau Director.

(6) The City Manager is an officer appointed by Common Council in accordance with such appointment and removal procedures as the Common Council may promulgate from time to time, and serves at the pleasure of the Common Council.

D. Unless otherwise prohibited by law, the same person may be appointed to hold one or more of said offices at the same time.

(h) Housing Board of Review.

(i) Ithaca Landmarks Preservation Commission.

(j) Planning and Development Board.

(k) Cable Commission.

(2) If necessary, additional alternates may be appointed on an ad hoc basis in the same manner that regular members are appointed.

(3) In order to minimize training time, preference should be given to former members of each board and commission.

(4) Alternates shall serve in the event that one or more board or commission members cannot act on a particular application or decision because of a conflict of interest.

(5) Alternates shall be required to attend the same training sessions as regular board members.
The text of Section C-11 of the Ithaca City Charter, titled “Mayor” is amended as follows:

§ C-11 Mayor.

A. Powers and duties. The Mayor shall: be a voting member of the City Council and shall attend and preside at meetings of the Council; represent the City in intergovernmental relationships, appoint with the advice and consent of the Council the members of citizen advisory boards and commissions; present an annual state of the City message; appoint the members and officers of Council committees; assign subject to the consent of Council agenda items to committees, and perform other duties specified by the Common Council; be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties; have power to administer oaths and take affidavits and acknowledgments; to recommend, in writing, to the Common Council, from time to time, such measures as the Mayor shall deem necessary or expedient for it to adopt; and possess all the power and authority conferred upon the Mayors of cities of the same class by any general statute of the state.

B. Compensation. The Mayor shall receive such compensation as may be fixed and determined by the Common Council and no other fee or reward excepting necessary expenses and disbursements incurred.

[A. The Mayor of the City of Ithaca shall be the chief executive officer thereof and shall, when present, preside at all meetings of the Common Council.

B. Powers and duties.

(1) It shall be the duty of the Mayor:

(a) To take care that within the City the laws of this state and the ordinances and bylaws passed by the Common Council shall be faithfully executed and, as head of the police of said City, to arrest or cause the arrest of all persons violating the same.

(b) To exercise constant supervision over the conduct of all subordinate officers and to receive and examine into all complaints against them for misconduct or neglect of duty.

(c) To appoint, at the first meeting of the Common Council in each year or as soon thereafter as may be, all standing committees required by the rules of the Common Council and all special committees of the Common Council, unless by it otherwise ordered.

(d) To recommend, in writing, to the Common Council, from time to time, such measures as the Mayor shall deem necessary or expedient for it to adopt.

(e) To approve or disapprove of all bills, orders, resolutions or ordinances which shall have passed the Common Council; and if the Mayor disapproves, the same shall be returned to the Common Council or to the Clerk thereof with the Mayor’s objection, in writing, which shall be filed by the Clerk; and the Common Council may, at its next meeting thereafter, proceed to reconsider such ordinance,
resolution, order or act thus disapproved: and if the same shall be passed by the
votes of 2/3 of all the alderpersons then in office, the same shall have full force
and effect, notwithstanding the objection of the Mayor. If any such bill, order,
resolution or ordinance shall not be so returned by the Mayor to the Common
Council or Clerk within five days after it shall have been passed, such ordinance,
resolution, order or act shall have full force and effect in like manner as if duly
approved by the Mayor, unless the term of office of the Mayor shall have expired
within five days after the same shall have been passed, in which case such
ordinance, resolution, order or act shall have no force.

(2) The Mayor shall have power, summarily, to hear, try and determine any complaint
for misconduct or neglect of duty against any officer of the City appointed by
the Mayor and to suspend or remove said officer; provided, however, that at the
next meeting of the Common Council after such removal, the Mayor shall state
the reasons therefor, in writing, which shall be spread upon the minutes kept by
the Common Council.

(3) The Mayor shall have power, summarily, to revoke any license issued by him/her
to any milk delivery person, hacker, carter, peddler or street dealer or for the
exhibition of any show.

(4) When authorized by the Common Council or Board of Public Works so to do,
the Mayor shall execute, in behalf of the City, all deeds, contracts and other
papers to be executed as the acts of the City, except as otherwise provided by
the Local Finance Law.

(5) The Mayor shall have power to administer oaths and take affidavits and
acknowledgments.

(6) The Mayor shall have power to prescribe the duties and fix the rate of
compensation of all officers appointed by the Mayor and of all employees of the
City not otherwise provided for by this Charter.

(7) The Mayor shall possess all the power and authority conferred upon the Mayors
of cities of the same class by any general statute of the state.

(8) The Mayor may, upon complaint being made to the Mayor under oath, issue a
warrant to any police officer in the City of Ithaca to arrest any person charged
with any crime or misdemeanor or with violation of any of the laws or statutes of
the state within said City and to bring such person for examination or trial before
the City Judge or Acting City Judge, and such warrant may be executed by any
officer to whom it is directed at any place within the state without endorsement.
When such process shall be made returnable before the City Judge, such
officer, upon the same being returned to said officer or the prisoner arrested by
virtue thereof being brought before said officer, shall take and acquire
jurisdiction of the subject matter and proceed with the case to the same extent
and in the same manner and in all respects as if such process had been
originally issued by said judge.

(9) The Mayor shall have power at all times to examine the books, vouchers and
papers of any officer or employee of said City and to summon and examine,
under oath, any person connected therewith.
(10) It shall be the duty of the Mayor, either in person or by the aid of a competent expert, to know the manner in which the accounts of the City and of the various boards are kept; to exercise general supervision thereof; to require the submission of the statements provided for by this Charter and such additional statements as the Mayor may deem necessary and to cause the annual statements to be published; to exercise the right of veto as to any resolution of any board created or continued by this Charter making unlawful expenditure or any expenditure in excess of its appropriation not otherwise provided for; to make recommendations for the consideration of any said boards; and to make such investigations and reports in regard to the work and transactions thereof as the Mayor may deem necessary or advisable for the information of the inhabitants of the City or otherwise.

C. The Mayor shall receive such compensation as may be fixed and determined by the Common Council and no other fee or reward excepting necessary expenses and disbursements incurred.

(c) The text of Section C-12 in the Ithaca City Charter, titled "Council Members" is amended as follows:

It shall be the duty of every Council member in said City:

A. To attend the regular and special meetings of the Common Council.

B. To act upon committees when thereunto appointed by the Mayor or Common Council.

C. To report to the Mayor and/or City Manager all officers who are guilty of any official misconduct or neglect of duty.

D. To aid in maintaining peace and good order in the City.

E. To perform or assist in performing all such duties as are enjoined upon the Council members of the City separately or upon the Common Council thereof.

(d) The text of Section C-13 in the Ithaca City Charter, titled "City Attorney" is amended as follows:

A. The Mayor shall appoint a City Attorney, subject to the approval of the Common Council. Once approved, the City Manager may remove the City Attorney with or without cause, but only on forty-five days' written notice to the Common Council, unless after such notice two-thirds of the Common Council votes to waive the remainder of the notice period. The Common Council may act by majority vote during the notice period to prevent the removal of the City Attorney.

B. The compensation of the City Attorney and terms of payment shall be fixed by the Common Council. The Common Council shall pay the City Attorney all disbursements or expenses which the City Attorney may legally incur in behalf of the City and which may be incurred under the direction of the Common Council, City Manager, or any board or officer, as provided by this Charter. The City Attorney must be a resident of
with his/her principal place of business in the City of Ithaca, New York. It is not necessary that the City Attorney be a resident of the City of Ithaca.

(B) The City Attorney shall prosecute and defend the actions and proceedings by and against the City and every department thereof; shall be the official legal advisor of the City Manager, [Mayor,] the Common Council, the boards and other officers of the City; shall, when required, prepare all legal papers, contracts, deeds and other instruments for the City and the different departments thereof; shall attend the meetings of the Common Council and of the Board of Public Works; shall, when requested by the Board of Public Works, attend to all of the proceedings under this Charter in relation to improvements, local or otherwise, and conduct the same in a legal manner; shall pass upon the legality of all bills or claims presented to the Common Council or the Board of Public Works which may be presented to the City Attorney for that purpose; and shall perform such other and professional services relating to the City as the [Mayor]City Manager or Common Council shall direct. It shall be the duty of the City Attorney to appear in behalf of the People in proceedings before the City Judge whenever, in the judgment of the [Mayor]City Manager or a majority of members of the Common Council or Board of Public Works, the interests of the City require it. If the City Attorney [certifies to the Common Council] determines that there is need for the assistance of additional counsel on questions or matters submitted to the City Attorney or if, in the judgment of the [Mayor]City Manager, other or additional counsel should be employed, the [Common Council may authorize the Mayor]City Manager or City Attorney may employ counsel thereon within such budgetary authorization as made available by the Common Council; and except upon such determination, the City Attorney and staff of the City Attorney’s Office shall be the sole attorneys and counselors of the City and of its various boards and departments.

(C) Whenever any papers in any proceeding or action by which the City is affected shall be served upon any officer of the City, such officer shall forthwith deliver the same to the City Attorney, who shall thereupon take such actions in the matter as shall be necessary to protect the interests of the City; provided that periodically, at [until the next] meetings of the Common Council, [when] the City Attorney shall report on [thereon concerning] such proceedings of sufficient import to merit report, and make recommendations thereon. The City Attorney shall keep a record or register of all suits and proceedings in which the City Attorney is involved as City Attorney. The City Attorney shall have power to authorize any attorney to temporarily appear for the City Attorney, in case of absence or illness, for and in behalf of the City in any suit or proceeding. All costs of actions and proceedings when the City is a party shall belong to the City or, when collected, shall be paid to the City Chamberlain and be credited to and form a part of the contingent fund. Upon termination of service, the City Attorney shall deliver to the successor City Attorney, as soon as engaged, the record or register of all suits and proceedings in which the City or any of its departments
may be a party, to the end that a suitable order may be entered making the substitution.

(e) The text of Section C-14 in the Ithaca City Charter, titled “City Prosecutor” is amended as follows:

A. The [Mayor] City Attorney, or an Assistant City Attorney so designated from time to time by the City Attorney, shall be the City Prosecutor. [The compensation of the City Prosecutor and terms of payment shall be fixed by the Common Council. The Common Council shall pay the City Prosecutor all disbursements or expenses which the City Prosecutor may legally incur in behalf of the City and which may be incurred under the direction of the Common Council or Mayor or any board or officer, as provided by this Charter. The City Prosecutor must be a resident of Tompkins County, New York, with his/her principal place of business in the City of Ithaca, New York. It is not necessary that the City Prosecutor be a resident of the City of Ithaca.]

B. The City Prosecutor shall conduct all prosecutions for crimes and offenses cognizable by the City Court of Ithaca, except felonies and such misdemeanors as the District Attorney chooses to prosecute, including violations of ordinances of the City of Ithaca, prosecutions of crimes and offenses upon the complaint of all departments and officers of the City of Ithaca and prosecutions and violations of rules duly promulgated by the various boards and departments of the City of Ithaca.

(f) The text of Sections C-16(C) and (E) in the Ithaca City Charter, subsections of “Community Police Board,” are amended as follows:

C. The Community Police Board shall act as community liaison to the Police Department, actively fostering positive communication between police and all segments of the community. It shall make provisions for resolving complaints by the citizenry related to the delivery of police services. Using established procedures, the Board may recommend action against any member of the Police Department. It shall recommend, on its own initiative or at the request of the Mayor, the City Manager, the Common Council or the Police Chief, on any matter affecting the policy or performance of the Police Department, including finances and budget. It shall perform such other related duties as requested by the Mayor, the City Manager or Common Council.

E. The Board shall give written annual reports to the Mayor, the City Manager and the Common Council regarding its activities and the changes it has sought and achieved.

(g) The text of Section C-17(A)(2) and (B) in the Ithaca City Charter, subsections of “Police Department,” are amended as follows:
(2) It shall be the duty of the Chief of Police to keep a record of all arrests and of all services performed by the Police Department and to keep a record of all articles taken from persons arrested or seized on warrant or otherwise, together with the disposition made thereof. The Chief of Police shall, upon request of the Police Commissioners, make a report as to the condition of the Department and whether any member of the force is delinquent in the performance of the rules and regulations prescribed for the control and conduct of police officers and of the directions given by the City Manager or Common Council in relation thereto.

B. The City Manager, upon the recommendation of the Chief of Police, may appoint such special police officers as may be necessary. Such appointments may be for definite terms stated in certificates of appointment or may be for indefinite terms, in which latter case such special police officers shall continue as such until their appointments are revoked by the City Manager, with or without cause. The certificate of appointment shall set forth, among other things, the term for which such special police officer is appointed, or, if such appointment is for an indefinite term, the certificate shall so state. It shall also state the limits of the jurisdiction of such special police officers. The City Clerk shall keep a record of all such appointments, which shall set forth the name of each special police officer, his/her address, the term for which he/she is appointed and the limits of his/her jurisdiction. All persons heretofore appointed as special police shall continue as such until the expiration of their several terms or, if appointed for an indefinite term or without term, until their several appointments are revoked by the City Manager.

(h) The text of the following subsections of Section C-26.1 in the Ithaca City Charter, titled “Discipline and removal of selected officers” is amended as follows:

§ C-26.1 Discipline and removal of selected officers.

A. Application of this section.

(1) The following City officers are subject to the discipline and removal procedures found in this section:

(a) Director of Code Enforcement [Building Commissioner].

(b) City Chamberlain.

(c) City Clerk.

(d) City Controller.

(e) Director of Human Resources.

(f) Assistant City Attorney.
(g) Deputy City Chamberlain.
(h) Deputy City Clerk.
(i) Deputy City Controller.

(2) Notwithstanding any other designation of applicability in this section, the discipline and removal procedures found in this section shall not apply to City officers who are subject to Civil Service Law for reasons which attach to the individual rather than the office.

(3) The following City officers are subject to the discipline and removal procedures found in §§ 75 and 76 of New York Civil Service Law, as amended:

(a) Youth Bureau Director.
(b) Director of Planning and Development.
(c) Superintendent of Public Works.
(d) Police Chief.
(e) Fire Chief.
(f) Deputy Fire Chief.

…

E. The final decision-maker is the Common Council, or the Council's designee if the Common Council delegates the power to impose a penalty, but under no circumstances, shall:

(1) Shall the penalty of removal be imposed in any manner inconsistent with §26.1(N).

(2) Shall the Mayor be the final decision-maker; nor

(3) Shall the Mayor vote, discuss or otherwise participate as a member of the Council for the purposes of this section.

F. Who may commence and prosecute an action. The City Manager [Mayor or the Mayor's designee] may commence and/or prosecute an action under this section.

…

I. Commencement of the hearing.

(1) An officer against whom an action is commenced may request a hearing regarding the action and must make any such request in writing to the City Manager [Mayor] within 10 days of the service of the notice of charges.
(2) The City Manager [Mayor], after receiving a written request for a hearing, must, within seven days of receipt of that request, forward such request to Common Council.

(3) If the officer against whom an action is commenced requests a hearing within the applicable time period, the hearing may not begin less than seven days after the answer to the notice of charges is forwarded to Common Council.

(4) The hearing must begin within 45 days after the service of the notice of charges unless the parties otherwise agree.

K. Disciplinary action prior to the final determination. The City Manager [Mayor] may impose any penalty short of removal that the City Manager [Mayor] deems appropriate prior to the final determination, but if such interim penalty includes suspension without pay, such suspension may not continue for longer than 30 days.

L. Hearing officer.

(1) The hearing officer is the Common Council or the Council's designee, but under no circumstances shall the City Manager [Mayor] be the hearing officer.

(2) The hearing officer may make findings of fact and recommend the imposition of any type of penalty to the final decision-maker.

(3) The hearing officer, if so designated by the Common Council, may be the final decision-maker, but under no circumstances may the penalty of removal be imposed in any manner inconsistent with § C-26.1N.

N. Penalties if found guilty.

(1) Discipline less than removal may be imposed as deemed appropriate by the final decision-maker.

(2) The penalty of removal may be imposed only by the affirmative vote of 2/3 of the Common Council[, exclusive of the Mayor].

(3) An officer must be provided with written notice of the penalty imposed.

O. Action upon acquittal. An officer who is acquitted of charges must be restored to the officer's most recent position with full pay for the suspension period, if any, less any unemployment benefits received for the suspension period and less any earnings from employment secured by the officer after the suspension began.

P. Appeals. An officer may appeal the final determination as authorized by law.

Q. This section is expressly intended to supersede General City Law § 4.
The text of Article III, titled “Common Council,” Section C-30, titled “Procedure at meetings; minutes; quorum,” subsections (B)(1) and (3), subsections of “Voting” in the Ithaca City Charter, are amended as follows:

(1) In the proceedings of the Common Council, each member present shall have a vote [except including the Mayor[, who shall only have a vote when the votes of the other members are tied, and except as hereinafter provided].

... [(3) Notwithstanding any other section, no tax or assessment shall be ordered except by a concurring vote of a majority of all members of the Common Council in office, including the Mayor, who shall be entitled to vote thereon as a member of the Council, and no tax levied, assessment bill ordered, resolution or ordinance shall take effect until the same shall receive the approval of the Mayor, as hereinafter provided.]

The text of Article III, titled “Common Council,” Section C-33, titled Acting Mayor; Alternate Acting Mayor, subsection A in the Ithaca City Charter, is amended as follows:

A. By the time of the first regular Common Council meeting of each year, the Mayor shall appoint a member of the Council to serve (when needed) as Acting Mayor until the next such annual appointment or replacement by the Mayor. In the Mayor’s absence or in the event of a vacancy in the office of the Mayor, the Acting Mayor shall preside at meetings where the Mayor would normally preside, if there is no other provision for another officer to preside at that meeting in the Mayor’s absence. In the event that the Mayor is unable to perform the other duties of the Mayor’s office, due to absence and unavailability, sickness or incapacitation, or resignation, removal or death, the Acting Mayor shall be vested with all the powers and perform all the duties of the Mayor, except as specified herein, until the Mayor shall resume the duties of the office or until any vacancy in the office of Mayor shall be filled for the unexpired term, by election according to law. The Acting Mayor shall not be authorized to make appointments[[-to remove City officers from their positions or to cast a veto]], unless the Mayor is absent or incapacitated for more than 30 days. [The Acting Mayor shall not be vested with the voting powers of the Mayor as described in § C-30, but shall instead exercise the voting rights afforded Council members other than the Mayor.] The Acting Mayor shall sign all necessary papers with the Mayor’s name, adding thereto the words “Acting Mayor.”

The text of Article III, titled “Common Council,” Section C-38, titled “Enactment of ordinances and resolutions; penalties,” subsection B, titled “Enactment procedure,” subsection 1 in the Ithaca City Charter, is hereby amended as follows:
(1) Every ordinance or resolution imposing any penalty or forfeiture for the violation of its provisions shall take effect upon its enactment or adoption, subject to approval or disapproval procedure by the Mayor as set forth in § C-11 of this Charter and publication of a notice as hereinafter provided. The notice shall contain the title and a brief description, together with a statement that such ordinance or resolution is on record with the City Clerk, which notice shall be published at least once in the official newspaper of the City of Ithaca before it shall become effective. It shall not be necessary to publish any ordinance, resolution, rule or regulation to be enforced within the City except as herein provided.

(l) The text of Section C-40 in the Ithaca City Charter, titled “Estimates of revenues and expenditures” is amended as follows:

§ C-40 Estimates of revenues and expenditures.

A. On or before the first day of August each year, or at such earlier date as the City Manager [Mayor] may prescribe, but not before the first day of July, the head of each quasi-independent board or commission receiving funds on a budgeted basis, or a designee, and the head of each department or other spending unit of the City government shall furnish to the City Controller an estimate of revenues and expenditures of such unit or authorized agency for the ensuing fiscal year.

B. Estimates shall be submitted in such form and with such additional information as the City Manager [Mayor] and the Controller shall prescribe.

C. Such estimates of expenditures shall be based on and shall be accompanied by a proposed work program prepared by each department head for such funds and such work program shall justify the funds requested.

D. The City Controller shall also present to the Common Council a statement of balances of funds on hand and available for application toward the reduction of taxes in the ensuing year.

(m) The text of Section C-41 (D) in the Ithaca City Charter, titled “Levy of taxes; lien” is amended as follows:

§ C-41 Levy of taxes; lien.

D. Such roll shall then be delivered to the City Chamberlain not later than the 31st day of December, with a warrant annexed under the hand of the City Manager [Mayor] and City Controller and the seal of the City, commanding said Chamberlain to receive, levy and collect the several sums in the roll specified as assessed against the person or property therein mentioned or described and to return said warrant and roll within 11 months after the date of the warrant, unless such time is extended by resolution of the Common Council.

(n) The text of Section C-52 (B) in the Ithaca City Charter, titled “Extraordinary purpose expenditures; special election” is amended as follows:
§ C-52 Extraordinary purpose expenditures; special election.

B. Every resident of the City of the age of 18 years and every resident corporation whose name shall be in the assessment roll made, completed and certified by the Assessors of said City next preceding said special election and upon whose property or upon whom, as the owner or possessor of property, a tax may be assessed upon said roll, and no other person or persons whatever, shall be entitled to vote at said special election. If any person is assessed in any trust capacity representing property mentioned or named in said roll, he/she shall, if a resident of said City and 18 years of age, be considered a qualified voter and entitled also to cast one vote as such trustee. Said assessment roll made by the Assessors or Assessors, or a copy thereof certified by the City Chamberlain [Clerk and the Mayor] of said City, shall be evidence of the names and assessments as aforesaid.

(o) The text of City Code Section C-62 (B), titled “Program for development of arts” is amended as follows:
§ C-62 Program for development of arts.

B. Agreements. The City Manager [Mayor], with the approval of the Board of Public Works, is hereby authorized to execute agreements with individuals or corporations permitting the erection of a theater and other facilities on former municipal airport lands as more particularly shown on a map entitled "Ithaca Municipal Airport," dated August 26, 1957, filed in the office of the City Engineer, upon such terms as said Board may determine, subject to the general conditions hereinafter set forth.

(p) The text of City Code Section C-86, titled “Statement of receipts and disbursements” is amended as follows:
§ C-86 Statement of receipts and disbursements.

The Board of Public Works shall, quarterly and at such other times as may be required either by the City Manager [Mayor] or by the Common Council, render to the Common Council an itemized statement of all its receipts and disbursements properly classified and showing the balance on hand at the beginning and at the close of the period covered; and at the close of each fiscal year, it shall submit an annual statement showing, by suitable summaries, the cost and the income of each department. Whenever requested by either the City Manager [Mayor] or by the Common Council, the Board shall also furnish any additional information in regard to its work or the cost thereof.

(q) The text of Section C-103 in the Ithaca City Charter, titled “Razing buildings to arrest and extinguish fires” is amended as follows:
§ C-103 Razing buildings to arrest and extinguish fires.

The City Manager [Mayor or Acting Mayor] shall have power to cause buildings to be pulled down, blown up or removed for the purpose of arresting the progress of fires.
and for the extinguishment of the same. In case a building shall be pulled down, blown up or removed under such authority for the purposes aforesaid and said building shall be insured, the owner thereof shall be entitled to recover from said City damages to the same extent that he/she would have been entitled to recover against the insurers in case such building had been destroyed by fire.

(r) The text of Section C-111 in the Ithaca City Charter, titled “Attendance at conventions, conferences and schools” is amended as follows:

§ C-111 Attendance at conventions, conferences and schools.

A. Attendance to be authorized. The Common Council of the City of Ithaca does hereby delegate and grant to the City Manager [Mayor] of said City the power to authorize the attendance of all officials, officers and employees of said City at official and unofficial conventions and conferences of municipal officers or employees or any school conducted for the betterment of municipal government if believed to be of benefit to the municipality.

B. Claims for expenses. Where authorization to attend a convention, conference or school shall have been granted by the City Manager [Mayor], no claim for expenses shall be audited, allowed or paid unless there shall have been an appropriation by the Common Council for these expenses of travel and unless there shall be attached thereto a travel order or similar document signed by the City Manager [Mayor] authorizing the claimant to attend such conference, convention or school.

Section 3. Amendments to the City Code - This Section 3 amends only the following provisions of the City of Ithaca Municipal Code, with the remainder of the provisions unchanged.

(a) The text of City Code Section 4-1 “Office of Mayor” is amended as follows:

§ 4-1 Powers and duties of Mayor.

As provided in Article II of the Charter and in addition thereto, the Mayor shall have, but not by way of limitation, the following powers and duties:

A. Serve as presiding officer of the Common Council, pursuant to § C-11 of the Charter.

B. Serve as presiding officer of the Board of Public Works, pursuant to § C-58 of the Charter.

C. Serve as the chief executive officer of the city, pursuant to § C-11 of the Charter.

D. Appoint, except as otherwise provided by the Charter, all department heads and appointive heads of administrative units of the City government, subject to approval or affirmation by the Common Council.
E. Appoint all officers of the City government for whose appointment no other provision is made by law.

F. Appoint the members of boards, commissions and other bodies, as required by the Charter or this Administrative Code, and such ad hoc or advisory committees as will, in his/her judgment, aid in the effective administration of the city.

G. Direct and monitor the governmental activities of units under his/her control with respect to the quality and cost of delivering City services and, to the extent of his/her authority, deal similarly with quasi-independent boards, commissions and agencies.

H. Recommend to the Common Council such departmental changes and functional assignments as will, in his/her judgment, improve the quality of services rendered or control the cost of the same, where such changes require Common Council action.

I. Submit or cause to be submitted to the Common Council for approval, procurement policies for the purchase, sale, rental and servicing of all materials, supplies and equipment for the City and, upon such approval, provide for the implementation and monitoring of the same.

J. Negotiate or cause to be negotiated, with Common Council approval, and administer on behalf of the City agreements with recognized employee representatives concerning conditions of employment, wages, employee sick leave, vacation, health insurance, retirement plans and other personnel matters and recommend to the Common Council necessary action as he/she from time to time deems necessary.

K. Submit to the Common Council for approval and, upon such approval, administer a salary plan for City employees and periodically have resurveyed prevailing salaries and benefits and recommend amendments to the Common Council in order to eliminate inequities, recruiting difficulties and employee turnover.

L. Authorize, within appropriations therefor, any officer or employee paid from City funds to attend, at City expense, any convention, conference, school or function deemed to be in the interests of the city.

M. Transfer employees temporarily between units of the Executive Branch of the City government.

N. Determine what officer or employee shall exercise powers or perform duties not otherwise assigned by the Charter, this Administrative Code, local law or ordinances of the Common Council, applicable provisions of law or administrative orders of higher authority having the effect of law.

O. Represent the City or arrange representation in dealing with agencies of the federal, state and county governments and regional authorities for the purpose of obtaining funds or services beneficial to the City and its inhabitants.
[E]. Represent the City or arrange representation in dealing with private agencies, educational institutions and other bodies which provide funds, services or advice to the city.

[F]. Represent the City or arrange such representation in meetings and discussions with governmental and private groups, where his/her participation or representation will be beneficial to the city.

[G]. Encourage and deal with individual corporations and others whose operations may be brought to Ithaca, who may be persuaded to remain in Ithaca or to expand their operations in the City in accordance with the General Plan adopted by the Common Council.

[H]. Serve as Chairperson of the interdepartmental Capital Program Committee, to ensure that all capital program applications are properly substantiated for consideration by the Capital Improvement Review Committee.

[I]. Prepare or cause to be prepared annually an executive budget pursuant to Article III of this chapter and, when adopted by the Common Council, monitor compliance with its provisions.]

[J]. Address the Common Council annually at its first regular meeting in January and at such other times as he/she deems appropriate with respect to the needs and resources of the city, including such programs and proposals for the good of the City as he/she may wish to recommend.

[K]. Execute on behalf of the city, when so authorized by the Common Council, all deeds, contracts and other documents to be executed as the acts of the City except as otherwise provided by law.

[L]. Declare the existence of an emergency affecting the life, health or safety of inhabitants of the City and, except as otherwise specifically provided by law, perform all acts necessary for the protection of such inhabitants, and execute all necessary documents to effectuate this authorization.]

[M]. Perform such other and related duties as the Common Council shall prescribe.

(b) The text of City Code Section 4-2 “Capital Program Committee” is amended as follows:

§ 4-2 Capital Program Committee.

There shall be in the Office of City Manager [Mayor] an interdepartmental Capital Program Committee, consisting of the City Manager [Mayor] as Chairperson, the Director of Planning and Development, the Superintendent of Public Works and the Controller. The function and duties of the Committee shall be, but not by way of limitation, the following:

(c) The text of City Code Section 4-5, titled “Preparation of proposed budget” is amended as follows:

§ 4-5 Preparation of proposed budget.
The City Manager [Mayor], with the assistance of the Controller in his/her role as Budget Officer, shall be responsible for preparation of and submission to the Common Council of one proposed executive budget each year.

(d) The text of City Code Section 4-6, titled “Capital budget forecast; procedure; guidelines” is amended as follows:

§ 4-6 Capital budget forecast; procedure; guidelines.

A. Submission to Controller and Capital Program Committee. On or before the 15th day of April of each year or such earlier date as the City Manager [Mayor] may prescribe, the head of each quasi-independent board or commission, department or other spending unit shall furnish to the Controller a description, justification and estimate for each physical public improvement or works, hereinafter called "capital project," which he/she proposes for development during one or more of the ensuing six fiscal years. Each capital project request shall show:

... The Chairperson of the Budget and Administration Committee shall present its findings and its recommendation for total capital expenditures to the Common Council at its first meeting in August.

(2) Following its deliberations, the Chairperson of the Budget and Administration Committee shall inform the City Manager [Mayor] of the Common Council's guidelines for finalizing the capital budget section of the executive budget. This shall be done not later than September 15 each year.

(3) None of the tentative decisions arrived at during the foregoing shall be binding upon the parties during their subsequent finalizing of the executive budget.

(e) The text of City Code Section 4-7, titled “Proposed capital budget” is amended as follows:

§ 4-7 Proposed capital budget.

A. The City Manager [Mayor], with the assistance of the Controller, shall proceed to prepare his/her proposed capital budget, which shall be arranged so as to give in parallel columns not less than the following comparative information for the appropriations and methods of financing capital projects.

(1) Appropriations for the last completed fiscal year.

(2) Appropriations for the present fiscal year.

(3) Recommendations of the City Manager [Mayor] for the ensuing fiscal year.
The text of City Code Section 4-8, titled "Proposed operating budget" is amended as follows:

§ 4-8 Proposed operating budget.

A. Procedure.

(1) On or before the first day of August each year or at such earlier date as the City Manager may prescribe but not before the first day of July, the head of each quasi-independent board or commission receiving City funds on a budgeted basis, or his/her designee, and the head of each department or other spending unit of the City government shall furnish to the Controller an estimate of revenues and expenditures of his/her respective unit or authorized agency for the ensuing fiscal year, exclusive of capital projects.

(2) Each estimate shall show the sources of revenues and the character and object of expenditures, which may be subclassified by functions and activities, designated according to the Uniform System of Accounts previously mentioned.

(3) The estimate of each unit or agency shall be subdivided according to the internal organization of such unit.

(4) Estimates shall be submitted in such form and shall contain such additional information as the City Manager and the Controller shall prescribe, provided that the estimate of expenditures shall constitute or be accompanied by a request for an appropriation.

(5) Such estimates of expenditures shall be based on and shall be accompanied by a proposed work program prepared by each applicant for such funds and such proposed work program shall justify the funds requested.

The text of the following subsections of City Code Section 4-9, titled "Proposed executive budget" is amended as follows:

§ 4-9 Proposed executive budget.

A. Information required.

(1) Upon the completion of the review and investigation of the estimates and requests from the various units and authorized agencies, the Controller shall prepare the proposed executive budget, under the direction of the City Manager, for both current operating and capital purposes. The proposed operating budget shall be in such form as the City Manager may deem advisable and shall show, in parallel columns, the following comparative information:

(a) The actual expenditures and revenues for the last completed fiscal year.

(b) The budget as modified for the current fiscal year.

(c) The estimates of expenditures and revenues for the ensuing fiscal year submitted by the heads of the various quasi-independent agencies, departments and other units.
(d) The Controller's recommendations and estimates as to expenditures and revenues for the ensuing fiscal year.

(e) The executive budget as proposed by the City Manager [Mayor].

(2) The proposed capital budget shall be established according to procedures stipulated in § 4-6 of this chapter, in conformity with the Uniform System of Accounts previously mentioned.

B. Detailing of recommendations. The recommendations for expenditures in the proposed executive budget shall be classified by units and their subunits or by special funds. Such recommendations shall show the character and object of expenditure and shall contain:

(1) An estimate of the several amounts which the City Manager [Mayor] deems necessary in the ensuing fiscal year for conducting the business of the City and each unit thereof, separately stated, and for other City purposes and charges, classified to show separately:

(a) The ordinary recurring expense of the operation and the maintenance of City government; and

(b) Any extraordinary or nonrecurring expenses to be financed from current revenue.

(2) An estimate of the general contingent fund which the City Manager [Mayor] recommends to be provided for unanticipated or emergency City purposes or charges.

(3) A statement of the several amounts recommended by the City Manager [Mayor] for appropriation to the reserve funds and sinking funds, if any.

(4) A statement of the amount required to pay the interest on and amortization of or redemption of indebtedness becoming due in the ensuing fiscal year.

(5) An estimate of the amount to be paid to school districts on account of unpaid school taxes to be returned to the City during such year.

(6) The amount of any judgment recovered against the City and payable during the fiscal year and for which no bonds have been or will be issued.

D. Additional data concerning debt. In addition to items of operation and maintenance, the proposed executive budget shall include or be supplemented by a statement showing the bonded indebtedness of the City government and its quasi-independent boards, commissions and other units, the debt redemption and interest requirements, the indebtedness authorized and unissued, the condition of the capital reserve and sinking funds and the borrowing capacity of the City and any other matter which the City Manager [Mayor] may deem advisable or the Common Council may require.
§ 4-10 Budget legislation and message.

B. Submission to Common Council.

(1) On or before the first day of October of each year, the City Manager [Mayor] shall submit to the City Controller for distribution to the members of the Common Council the proposed executive budget, including both the proposed operating budget and the proposed capital budget for the ensuing fiscal year, the proposed appropriation and tax levying legislation as prescribed by Subsection A of this section, and an accompanying budget message as prescribed by Subsection C of this section.

(2) The proposed operating budget, the proposed capital budget, the budget message and the appropriation and tax levying legislation shall be combined as one document, which shall constitute the proposed City budget for the ensuing fiscal year.

(3) The City Controller shall forward the proposed City budget, as defined in Subsection B(2) above, to the Common Council no later than three days after receipt of the proposed City budget from the City Manager [Mayor].

C. Budget message. The City Manager’s [Mayor’s] budget message shall include, but not be limited to, an outline of fiscal policy for the City government, describing the important features of the current budget, with reference both to proposed expenditures and anticipated income, and a general summary showing the current and capital requirements for the budget year, with supporting schedules, which shall exhibit the aggregate figures of the current budget in such manner as to show a balanced relation between the proposed expenditures and the total anticipated income for the fiscal year covered by it and which shall compare these figures with the corresponding figures of the last completed fiscal year and the year in progress. The message shall contain such comments with respect to the capital program and budget as the City Manager [Mayor] may deem advisable, including the probable effect thereof for each of the years involved.

D. Available as public record. Upon submission, the proposed City budget shall become a public record in the office of the City Clerk. Copies of the same shall be made available by the City Clerk for distribution at a charge to be fixed by the Common Council.

E. Review by Common Council or designated committee.

(1) The Common Council, or a committee designated by it, shall review the proposed City budget as submitted by the City Manager [Mayor] and shall, not later than the 31st day of October, file with the City Controller its report, including any recommendations proposed therein.

(2) Such report shall become a public record in the office of the City Controller.
(3) Copies of the same shall be made available by the City Controller for distribution at a charge to be fixed by the Common Council.

(i) The text of City Code Section 4-11, titled “Public hearing” is amended as follows:

§ 4-11 Public hearing.

Not later than the second day of November, the City Clerk shall cause to be published in the official newspapers a notice of the place and time, not less than five days after such publication nor later than the seventh day of November, at which the Common Council at its regular November meeting will hold a public hearing on the proposed City budget submitted by the [City Manager/Mayor] and the report submitted by the Common Council, or a committee designated by the Council.

(j) The text of City Code Section 4-12, titled “Adoption of budget” is amended as follows:

§ 4-12 Adoption of budget.

B. Return to [City Manager/Mayor].

(1) If the budget as passed by the Common Council contains any such alterations, the same shall be presented by the City Clerk to the [City Manager/Mayor] not later than two business days after its passage for his/her consideration of such alterations.

(2) If the Mayor approves all the alterations, he/she shall affix his/her signature to a statement thereof and return the budget and such statement to the City Clerk not later than three business days after presentation by the Clerk. The budget, including the alterations as part thereof, shall then be deemed adopted.

[C. Mayor's veto.

(4) The [City Manager/Mayor] may request reconsideration of any one or more of such alterations and, in such case, shall append to the budget a statement of the alterations to which he/she requests reconsideration objects, with the reasons therefor, and shall return the budget with his/her request for reconsideration to the City Clerk not later than three business days after presentation by the Clerk.

(2) The Clerk shall distribute the same to the Common Council no later than two business days after receipt of the same from the [City Manager/Mayor].

(3) At a meeting to be held not later than the 30th day of November, the Common Council may proceed to consider, discuss and vote upon the question of whether to approve any or all of the alterations so objected to.

(4) If 2/3 of the members of the Common Council, exclusive of the Mayor, vote to approve such alterations, or any of them, the budget with the alterations so approved, together with any additional alterations as Common Council may
make in its discretion [not so objected to by the Mayor,] shall be deemed adopted.

[D. Mayor's failure to act. If a budget with alterations is not returned by the Mayor to the City Clerk with his/her objections within three business days after its presentation to the Mayor by the City Clerk pursuant to §4-12B(1) above, it shall be deemed adopted.]

E. Common Council's failure to act. If a budget has not been adopted as herein provided on or before the 30th day of November, the proposed executive budget as submitted by the City Manager [Mayor], plus all alterations to which he/she has failed to object, shall be deemed adopted as the City budget for the ensuing fiscal year.

F. Certification of budget. Three copies of the City budget, as adopted, shall be certified by the City Clerk. One such copy shall be filed in the office of the Mayor and one each in the offices of the Controller and the City Clerk and the City Manager. The City budget, as so certified, shall be printed or otherwise reproduced, and copies shall be made available at a charge to be fixed by the Common Council.

G. Budget Process Checklist. The following table is provided merely as a convenience and if any conflict arises between this table and the text of the Code, the text shall be considered definitive. The Controller shall copy this chart from the Code, indicate on such copy the actual calendar date for each step in the current calendar year, and provide a copy to each department head, the City Manager [Mayor] and each Alderperson on or before the 31st day of March.

(k) The text of City Code Section 4-15, titled “Reduction of appropriations” is amended as follows:
§ 4-15 Reduction of appropriations.

If at any time during the fiscal year it appears that the revenues available will be insufficient to meet the amounts appropriated, the City Manager [Mayor] shall report to the designated committee of the Common Council without delay the estimated amount of the deficit, remedial action taken by him/her and his/her recommendations as to further action. The designated committee shall recommend and the Common Council shall take such action as it deems necessary to prevent any deficit. For that purpose, it may, by resolution, reduce one or more appropriations; but no appropriation for debt service may be reduced, and no appropriation may be reduced by more than the unencumbered balance thereof or below any amount required by law to be so appropriated. The Common Council may also, if it so desires, authorize borrowing temporarily pursuant to applicable law in an amount not greater than such deficit for such purposes.

(l) The text of City Code Section 4-16, titled “Transfer of appropriations” is amended as follows:
§ 4-16 Transfer of appropriations.

Within limitations established by the Common Council, the City Manager [Mayor] may, at any time during the fiscal year, transfer part or all of any unencumbered appropriation balance between classifications or expenditures within
the same unit of City government. The Common Council, on recommendation of the City Manager [Mayor], may transfer part or all of any unencumbered appropriation balance from one administrative unit or authorized agency to another. But no transfer shall be made from appropriations for debt service, and no appropriation may be reduced below any amount required by law to be so appropriated.

(m) The text of City Code Section 4-20, titled “Establishment; Director” is amended as follows:
§ 4-20 Establishment; Director.

There shall be a Youth Bureau, headed by a Youth Bureau Director. Among the powers and duties of the Youth Bureau Director, but not by way of limitation, shall be the:

D. Submission to the City Manager and Common Council [Mayor] of such reports, data and other information as he/she may require or as may otherwise be appropriate, from time to time, regarding youth policies, programs and services throughout the city.

E. Except as may otherwise be provided in the Charter or this chapter, performance of such other and related duties as may be required by the City Manager [Mayor].

(n) The text of City Code Section 4-22, titled “Establishment; Director” is amended as follows:
§ 4-22 Establishment; Director.

There shall be a Department of Planning, Building and Development headed by a Director of Planning and Development. Among his/her functions and duties, but not by way of limitation, shall be the:

... J. Service on and provision of service to such bodies as may be concerned with landmark preservation, beautification and the like, as mandated by applicable law or policy decisions of the Board [the Mayor] or the Common Council.

K. Carrying out of such additional functions and duties of a related nature as shall be assigned by the Board, the City Manager [Mayor] or the Common Council.

(o) The text of the following subsections of City Code Section 4-23, titled “Planning and Development Board” is amended as follows:
§ 4-23 Planning and Development Board.

A. Creation, appointment and organization.

(1) There shall be a Planning and Development Board, also known as the "Planning Board," consisting of seven members, each of whom shall be appointed by the Mayor with the consent of Common Council. There shall be one member from the Board of Public Works. The Mayor shall appoint one member of the Planning and Development Board to serve as Chairperson. In the absence of a Chairperson, the Planning and Development Board may designate a member to
serve as Chairperson. In making such appointments, the Mayor may require Planning and Development Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The term of office shall be three years, and the terms shall be staggered, except for the member appointed from the Board of Public Works. With respect to that member, the term of office shall be two years and shall coincide with his or her term of office as a member of the Board of Public Works.

(2) Legislative body members ineligible. No person who is a member of the Common Council shall be eligible for membership on such Planning and Development Board.

(3) Vacancy in office. If a vacancy shall occur, otherwise than by expiration of term, the Mayor, with the consent of Common Council, shall appoint a new member for the unexpired term.

(4) Removal of members. The Mayor or Common Council shall have the power to remove, after public hearing, any member of the Planning and Development Board for cause. Any Board member may be removed for noncompliance with minimum standards relating to meeting attendance and training as established by the Common Council.

…

(8) Rules and regulations. The Planning and Development Board may recommend to the Common Council regulations relating to any subject matter over which the Board has jurisdiction under this article or under any other statute or under any other local law or ordinance of the city.

B. Powers and duties. Among its powers and duties, but not by way of limitation, shall be:

…

(13) Undertaking such related functions and duties as shall be requested of it by the City Manager or Mayor or Common Council.

(p) The text of City Code Section 4-23.4, titled “Powers and duties of the Director” is amended as follows:

§ 4-23.4 Powers and duties of the Director.

Among the Director’s powers and duties, but not by way of limitation, shall be the following:

…

E. To submit to the City Manager such reports, data and other information as he/she may require or as may otherwise be appropriate, from time to time, regarding youth and family policies, programs and services throughout the city.
F. To forward the GIAC’s annual budget proposals to the City Manager [Mayor] in accordance with guidelines and schedules established for all City departments.

G. Except as may otherwise be provided in the Charter or this chapter, performance of such other and related duties as may be required by the City Manager [Mayor].

(q) The text of City Code Sections 4-28 and 4-29 are deleted in their entirety as follows:

§ 4-28 Transitional provisions.

The Common Council, on recommendation of the Mayor, shall determine and provide for any necessary matters involved in the transition to this chapter.

§ 4-29 Continuity of authority.

Any proceedings or other business undertaken or commenced prior to the effective date of this chapter shall be conducted and completed by the City unit responsible therefor under the Charter or this chapter.

(r) The text of “Part I: Administrative Legislation,” Chapter 47, “Economic Development Zone,” Section 47-3, “Authorization to submit an application,” in the Ithaca City Code, is amended as follows:

The [Mayor] City Manager is hereby authorized to submit an application for designation of certain areas within the City of Ithaca as an Economic Development Zone.


D. In the event that the immediate supervisor to whom the initial presentation is made is a department head or the [Mayor] City Manager, the grievant, if dissatisfied with the decision communicated pursuant to Subsection C, may, within 10 days of the communication of that decision, submit a written statement describing the specific nature of the grievance and the objections to the decision to the department head or [Mayor] City Manager. The department head or [Mayor] City Manager shall respond to such statement within 10 days by submitting a written description of the reasons underlying the decision. The grievant shall then have the right to appeal to the Grievance Board in accordance with the procedure outlined in § 90-7.


I. Report. The Grievance Board shall make its report, in writing, within 10 days after the close of the hearing. It shall immediately file its report and the written summary of the proceedings with the City Clerk and shall at the same time send a copy of its
report to the employee, the employee's representative, if any, the department head, the [Mayor] City Manager and the Local Civil Service Commission, if appropriate. The report shall include a statement of the Board's findings of fact, conclusions and advisory recommendations.


D. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail, within 30 days of the date of entry or settlement, upon the [Mayor] City Manager, and if not inconsistent with the provisions of this article, the amount of such judgment or settlement shall be paid by the City.


A. Delivery by the employee to the City Attorney or the [Mayor] City Manager of a written request to provide for his or her defense, together with the original or a copy of any summons, complaint, process, notice, demand or pleading, within 10 days after he or she is served with such document; and.

(w) The text of “Part I: Administrative Legislation,” Chapter 90, “Personnel,” Article XI, “Merit Award Board,” Section 90-70, “Creation; membership; terms” and subsection A thereof, in the Ithaca City Code, are amended as follows:

There is hereby created a Merit Award Board within the City of Ithaca. The Board shall consist of the [Mayor] City Manager, Corporation Counsel and a committee of Alderpersons and City employees as follows:

A. Annual Merit Award Board: The [Mayor] City Manager, Corporation Counsel, and five alderpersons to be designated by Common Council.


Nominators: any employee, Alderperson, or the Mayor, or the City Manager may nominate an employee, cross-functional team or committee for annual recognition by completing and submitting an annual recognition award nomination form to the Department of Human Resources. Nominations must be submitted no later than the first day of August of the year of nomination and shall consider a twelve-month period ending on July 31. Awards shall become a part of the official personnel file of the City employee.

“Quarterly recognition,” in the Ithaca City Code, subsection (4), in the Ithaca City Code, is amended as follows:

Nominators: any employee, Alderperson, [or the Mayor, or the City Manager] may nominate an employee, cross-functional team or committee for quarterly recognition by completing and submitting a quarterly recognition nomination form to the Department of Human Resources. Awards shall become a part of the official personnel file of the City employee.

(z) The text of City Code Section 232-5, titled “Transferability; revocation” is amended as follows:

§ 232-5 Transferability; revocation.

All licenses issued by the City may be revoked for cause and shall be upon the following conditions and shall contain the following words: "This license is not transferable except by consent of the issuing authority and is issued to and accepted by the licensee on the express condition that it is revocable by the City Manager [Council or the Mayor] if at any time, in their judgment [of either], the licensee proves unfit to hold such license or the places licensed are not being conducted in a proper and orderly manner."

(aa) The text of City Code Section 232-33, titled “Issuance and revocation of licenses” is amended as follows:

§ 232-33 Issuance and revocation of licenses.

The City Manager or their designee [Mayor or the Mayor's designee] shall grant and revoke licenses at his/her discretion in accordance with the provisions of this article and Article 5 of the General Business Law and shall require at all times such data and information as may, in his/her opinion, be necessary to fully carry out the intent and purpose of this article.

(bb) The text of City Code Section 232-34, titled “Application for license” is amended as follows:

§ 232-34 Application for license.

Applications for licenses shall be made to the City Manager or designee [Mayor or Mayor's designee] in such form as he/she may prescribe and must be accompanied by:

A. Satisfactory testimonials of the good moral character of the applicant.

B. Cash or a certified check for the license fee in the amount fixed by this article.

C. Such other and additional information that the appropriate officer deems necessary or appropriate.

(cc) The text of City Code Section 232-53, titled “Solicitation of contributions” is amended as follows:
§ 232-53 Solicitation of contributions.

B. License and identification card required. It shall be unlawful for any person, organization, society, association or corporation or their agents or representatives to solicit money, donations of money or property or financial assistance of any kind upon the streets, in office or business buildings, by house-to-house canvass or in public places in the City except upon a license issued by the [City Manager] [Mayor] and an identification card issued by the City Clerk.

C. Application for license; contents. An application to solicit funds for any cause whatever, as provided for in this section, shall be addressed to the [City Manager] [Mayor] at least two weeks in advance of the first day of solicitation, and such application shall contain the following information:

(1) The name and the purpose of the cause for which permission is sought.

(2) The names and addresses of the officers and directors of the organization.

(3) The time for which permission is sought and the localities and places of solicitation.

(4) Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such solicitation.

(5) Such other information as the [City Manager] [Mayor] shall require.

D. Statement of finances. It shall be the duty of the [City Manager] [Mayor], before granting permission to solicit funds or donations as provided for in this section, to compel the applicant to file [with the Mayor] a signed statement of all moneys collected in the calendar year or the fiscal year of such organization, society, association or corporation previous to the application and the expenditures connected therewith, together with the names and addresses of all persons receiving wages, commissions or emoluments and the amounts so expended.

(dd) Amend City Code Section 282-8 (B), titled “Administration,” as follows:

§ 282-8 Administration.

B. The [City Manager] [Mayor], on behalf of the City of Ithaca, and in consultation with the Superintendent of Public Works and the Director of Planning and Development, shall designate a Stormwater Management Officer (SMO), who shall administer, implement and enforce the provisions of this Part 1.

(ee) The text of Chapter 316, titled “Emergency Preparedness,” Article I, titled “Snowmobiles,” Section 316-5(A), a subsection of “Limited operation permitted,” in the Ithaca City Code, is amended as follows:

Emergency: in an officially declared snow emergency in the City for the purpose of emergency travel only, during the period of time when and at locations where snow upon the highways renders travel by automobiles impractical, as to declared and
permitted by the [Mayor] City Manager or other authorized person. A snowmobile may also be operated on a street or highway in the City in emergency situations when the specific travel for a specific purpose is authorized or directed by a state or local police officer, the Highway Superintendent or the [Mayor] City Manager.

Section 4. 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 5. Effective date.
This Local Law shall take effect on January 1, 2024, and after filing in the office of the Secretary of State. This Local Law is subject to mandatory referendum pursuant to Municipal Home Rule Law Section 23.
4.6 An ordinance to amend the City Code to incorporate the creation of a City Manager Position

WHEREAS, under our current charter, the Mayor is elected every four years and serves as the chief executive officer of the City, the political leader of the City, and the Chair of Common Council; and

WHEREAS, as chief executive officer the Mayor oversees 11 departments, a budget of 79 million dollars, 400 employees, and six bargaining units; and

WHEREAS, as political head, the Mayor appoints committees, represents the City to other levels of government, and articulates a vision for the future and values of the City; and

WHEREAS, the Common Council and the Mayor believe that it is in the best interests of the City to shift to an alternative form of government that would allow Common Council to select and hire a trained, experienced person in the role of City Manager to be the chief executive officer of the City and would allow the electorate to choose a Mayor who is the political leader of the City as well as a voting member and Chair of Common Council; and

WHEREAS, this action requires amendment of the City Charter by local law (addressed in the companion local law), and various Code changes by ordinance (addressed by this ordinance); now, therefore

Ordinance No. 2021-

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

Section 1. Legislative findings, intent, and purpose.
The Common Council makes the following findings:
1. The current governmental structure of the City does not fully serve the best interests of the City, insofar as:
   - An elected Mayor may not have experience administering a large complex organization
   - The Mayor’s salary is not commensurate with this level of responsibility and is significantly lower than the salaries of the department heads managed by the Mayor
   - Under this prevailing system, the Mayor is accountable to the electorate every four years
   - Though elected, the Mayor only votes with the Council to break a tie
   - Even if the Mayor has a Chief of Staff that person’s role is ambiguous insofar as department heads do not report to and are not evaluated or hired by the Chief of Staff
   - Furthermore, an appointed Chief of Staff reports directly to the Mayor and may be replaced upon the election of a new Mayor

2. An alternative form of government would allow Common Council to select and hire a trained, experienced person in the role of City Manager to be the chief executive
officer of the City and would allow the electorate to choose a Mayor who is the political leader of the City as well as a voting member and Chair of Common Council.

3. Advantages of this alternative form of government for the City of Ithaca include:
   - An appointed City Manager is hired solely for educational and professional credentials and compensated accordingly.
   - An appointed City Manager is accountable to Common Council every day and is responsible for implementing policy formed by elected Alderpersons, reflecting the will of the citizens.
   - An appointed City Manager with long service offers stability to City government.
   - The Mayor is a voting member of Common Council.
   - There is a distinction between the administrative and political functions in City leadership.

Based upon the above findings, the intent and purpose of this ordinance is to amend the City Code to reflect the changes implemented by the companion Local Law creating the position of an appointed City Manager that will report directly to the Common Council, which shall continue to be chaired by the Mayor, and to detail the authorities and responsibilities of the City Manager as chief executive officer of the City, while preserving to the Mayor the role as political leader, but not administrative head, of the City.

Section 2. References to Mayor in contracts or agreements

To the extent any current or existing contract or other written agreement or obligation with or on behalf of the City of Ithaca refers to or confers a remedy or responsibility to the Mayor, upon the effective date of this ordinance, the term “Mayor” shall be interpreted to mean the City Manager.

Section 3. Amendments to the City Code

This Section 3 amends only the following provisions of the City of Ithaca Municipal Code, with the remainder of the provisions unchanged.

(a) The title of “Part I: Administrative Legislation,” Chapter 7, “Appointments, Mayoral” in the Ithaca City Code, is amended as follows:

   Appointments, [Mayoral] by Mayor and/or City Manager.

(b) The introductory portion of “Part I: Administrative Legislation," Chapter 7, “Appointments, Mayoral” in the Ithaca City Code, titled “Charter References,” is amended as follows:

   Appointments by Mayor and/or City Manager — See §§ C-26 and C-27.

Commented [KF1]: Remove? I think ECode does this
(c) The text of “Part I: Administrative Legislation,” Chapter 7, “Appointments, Mayoral,” Section 7-1, “Procedure outlined,” and subsection A thereof in the Ithaca City Code, are amended as follows:

The procedure for making appointments by the Mayor and/or the City Manager as provided for in applicable provisions of the charter and code (for purposes of this Chapter, the “Appointing Official”), to any office, board, commission or committee for which the approval of the Common Council is required or sought shall be as follows, except as provided in charter § C-26:

A. The [Mayor-Appointing Official] shall give written notice of the proposed appointment to the members of the Common Council at least seven days in advance of the Council meeting at which Council action is requested.

(d) The introductory portion of “Part I: Administrative Legislation,” Chapter 8, “Advisory Commissions” in the Ithaca City Code, titled “General References,” in the second line thereof, is amended as follows:

[Mayoral appointments]Appointments by Mayor and/or City Manager — See Ch. 7.

(e) The text of “Part I: Administrative Legislation,” Chapter 17, “Cable Commission,” Section 17-2, “Officers and meetings; minutes,” subsection B in the Ithaca City Code, is amended as follows:

B. Copies of the minutes of each meeting shall be transmitted to the [Mayor-City Manager] and the Common Council.

(f) The text of “Part I: Administrative Legislation,” Chapter 18, “Cable Access Oversight Committee,” Section 18-3, “Terms; officers and meetings; minutes,” subsection C in the Ithaca City Code, is amended as follows:

C. Copies of the minutes of each meeting shall be transmitted to the [Mayor-City Manager] and the Common Council.

(g) The text of “Part I: Administrative Legislation,” Chapter 42, “Cyber Security Citizen Notification Policy” Section 42-5, “Implementation,” in the Ithaca City Code, is amended as follows:

The [Mayor-City Manager] shall ensure that a written, city-wide protocol is established, which protocol shall stipulate how the notification requirements in this policy are to be implemented.
The text of Chapter 48, titled “Emergency Preparedness,” Section 48-4 in the Ithaca City Code, titled “Designation of emergency operations center (EOC),” is amended as follows:
The emergency operations center for the city will be in the Central Fire Station unless the [Mayor] City Manager declares otherwise. Once the [Mayor] City Manager or next city officer in line has declared that an emergency exists, the emergency operations center will be staffed on a twenty-four-hour basis until the declared emergency subsides. The emergency operations center will forward all warnings, directives, information, etc., to various local departments, as appropriate. This will be done through the use of department representatives, telephones (located in the emergency operations center), radios in the Police, Fire, Highway and Civil Defense Departments and in the offices of cooperating agencies. Each member assigned to the emergency operations center will be familiar with this plan, particularly with the section pertaining to each responsible person’s service duties.

The text of Chapter 48, titled “Emergency Preparedness,” Section 48-5 in the Ithaca City Code, titled “Essential emergency operations records,” is amended as follows:
The [Mayor] City Manager, with the assistance of the Fire Chief, Police Chief and/or Superintendent of Public Works, functioning either at the emergency operations center or an appropriate designated alternative site, depending on the nature of the emergency, are responsible for the maintenance and availability of records, documents, plans and other materials required to discharge their and others’ functions during an emergency.

The text of Chapter 48, titled “Emergency Preparedness,” Sections 48-6(A), (D), and (E) in the Ithaca City Code, subsections of “Procedure,” are amended as follows:
A. The [Mayor] City Manager or the designated Emergency Coordinator is responsible for notification and declaration of an emergency or disaster.

D. The City of Ithaca should contact the County Civil Defense Office regarding any major emergency or disaster situation. Civil defense assistance should be requested when local or mutual aid resources are exhausted. All requests for county civil defense assistance of any nature by any department will be approved by the [Mayor] City Manager and will be made to the County Director of Civil Defense by direct phone contact or by civil defense radio network.

E. Military assistance requests will be made by the [Mayor] City Manager of the City of Ithaca to the County Administrator and the Chair of the County Board, who will forward the request to the Tompkins County Civil Defense Office, which will forward it to the State Natural Disaster Commission.
The text of Chapter 48, titled "Emergency Preparedness," Sections 48-7(A), (D), (I), (J), (K), (L), (M), (N), and (O) in the Ithaca City Code, subsections of "Powers and duties of officials," are amended as follows:

A. [Mayor] City Manager.

(1) The [Mayor] City Manager of the City of Ithaca is responsible for the conduct of disaster operations within the City of Ithaca. The [Mayor] City Manager shall use any and all facilities, equipment, supplies, personnel and other resources of the city in such a manner as may be necessary or appropriate to cope with the disaster.

(2) The [Mayor] City Manager shall direct the activities of all agencies within the city against the effects of emergency in conformance with the approved plans for the rescue and relief of the people, the recovery and the rehabilitation of the community. The [Mayor] City Manager will utilize services of the emergency operations center and its staff for implementation of necessary measures to achieve emergency operations.

D. An Emergency Coordinator shall be appointed by the [Mayor] City Manager, with skills appropriate to direct the implementation of the comprehensive plan for the emergency operations center, under the direction of the [Mayor] City Manager. Also, under the direction of the [Mayor] City Manager, the Emergency Coordinator coordinates the emergency operations of the emergency operations center, prepares estimates of the situation, advises the [Mayor] City Manager of operational priorities and recommends requests for assistance from the Tompkins County Civil Defense or other appropriate agencies.

I. A Public Information Officer will be appointed by the [Mayor] City Manager of the city to direct the local dissemination of emergency information and the issuance of news reports to the public and notify the County Civil Defense Office on the status and development of emergency measures, using all media of public communication.

J. If necessary, a Communications Officer will be appointed by the [Mayor] City Manager to supervise, direct, arrange and restore communications for all emergency purposes using available communication means and methods. Maximum use of all available forms of communications will be planned by all departments to aid the communications staff in carrying out their duties.

K. If needed, a Medical Officer or staff will be appointed by the [Mayor] City Manager to direct all action necessary for rendering health and medical services to the community. The Medical Officer or staff should alert hospitals and ambulances in
the area regarding anticipated medical needs.

L. If necessary, a Supply Officer will be appointed by the [Mayor] City Manager to carry out measures necessary to the emergency handling of all local resources.

M. If necessary, a Staffing Officer will be appointed by the [Mayor] City Manager to coordinate and/or direct the assignment of personnel to the various emergency services as requested.

N. If necessary, a Transportation Officer will be appointed by the [Mayor] City Manager to carry out measures necessary to the utilization of all transportation modes for support and rescue operations.

O. Additional responsibilities and functions. All department heads and/or those responsible for carrying out parts of the emergency operations for the City of Ithaca shall perform their responsibilities and functions as directed by the [Mayor] City Manager or the Emergency Coordinator.

(l) The text of “Part I: Administrative Legislation,” Chapter 55, “Ethics, Code of,” Section 55-7, “Required conduct respecting actual and potential conflicts of interest,” subsection F in the Ithaca City Code, is amended as follows:

F. Notwithstanding any provisions in this chapter, if a conflict of interest cannot be avoided because of the nature of the circumstances in a particular situation, any involved city official or employee shall bring the particular matter to the attention of the Mayor, the City Manager, and the City Attorney, or such other city official or city employees as may be appropriate, before voting or taking any discretionary action on said matter.

(m) The text of “Part I: Administrative Legislation,” Chapter 73, “Landmarks Preservation Commission,” Section 73-6, “Records and annual report,” in the Ithaca City Code is amended as follows:

The Commission shall keep a record, which shall be open to the public view, of its resolutions, proceedings and actions. The vote or failure to vote of each member shall be recorded. The concurring affirmative vote of a majority of those members present shall constitute approval of plans before it for review or for the adoption of any resolution, motion or other action of the Commission. The Commission shall submit an annual report of its activities to the [Mayor] City Manager and Common Council and make such recommendations to the Common Council as it deems necessary to carry out the purposes of this chapter and Chapter 228, Landmarks Preservation.

subsection E, “Investigation procedure,” subsection (1), in the Ithaca City Code, is amended as follows:

(1) Once a formal complaint has been received, the Human Resources Director will commence a prompt investigation of the allegations in the complaint and will report the results of the investigation to the complainant’s department head or to the [Mayor] City Manager, as appropriate. The investigation should be concluded within 60 days of the filing of the formal complaint. The investigation may be expanded if more allegations are uncovered during the investigation.


B. Complaint founded. If a complaint is founded, the Human Resources Director and the Department Head or [Mayor] City Manager will meet with the person accused and his/her union representative, if the accused is represented, and explain the findings of the investigation. The accused will have an opportunity to accept the findings and any corrective and/or disciplinary action, or to oppose the findings and file a grievance through his/her collective bargaining unit. The Human Resources Department will maintain a confidential record of the investigation.

(p) The text of “Part I: Administrative Legislation,” Chapter 120, “Youth Council,” Section 120-2, “Purposes and duties,” subsection F, in the Ithaca City Code, is amended as follows:

To submit a written annual report on the membership and activities of the Youth Council, to the Mayor and Common Council (and the City Clerk), and to report on a regular basis to the Mayor.

(q) The text of “Part I: Administrative Legislation,” Chapter 120, “Youth Council,” Section 120-5, “Staff support,” in the Ithaca City Code, is amended as follows:

A staff person(s) from a City Youth Services Department shall act in consultation with the Common Council Liaisons and under the direction and supervision of the City department head so designated by the [Mayor] City Manager. The duties of this staff person with regard to the Youth Council shall be set forth in writing and kept up-to-date by the department head and provided to the Mayor and City Manager, and a current version of such description shall be appended to the annual report required by § 120-2 herein.

(r) The text of “Part I: Administrative Legislation,” Chapter 120, “Youth Council,” Section 120-6, “Meetings; records; annual report” subsection C, in the Ithaca City Code, is amended as follows:

The Youth Council shall meet at least one time per year with the Mayor.
The text of “Part II: General Legislation,” Chapter 128, “Alcoholic Beverages,” Section 128-5, “Exceptions,” subsection B, in the Ithaca City Code, is amended as follows:

The provisions of this article shall not apply to any activity sponsored by an organization having proper license to dispense alcoholic beverages in or upon any public place within the City, said license having been issued by the Alcoholic Beverage Control Board of Tompkins County and such organization having obtained permission from the [Mayor] City Manager. This exception shall apply only to the public place in the City in or upon which the alcoholic beverages are dispensed.

The text of “Part II: General Legislation,” Chapter 132, “Assemblies and Parades,” Section 132-8, “Appeals,” in the Ithaca City Code is amended as follows:

The applicant may appeal to the [Mayor] City Manager or the [Mayor] City Manager’s designee from the decision of the permit officer within five days, in writing and with notice, and the [Mayor] City Manager or the [Mayor] City Manager’s designee shall hear argument from both sides and render a written decision reversing, affirming or modifying in any regard the determinations of the permit officer within 48 hours. Remedy by appeal as described in this section is not exclusive, and exhaustion of such appeal shall not be required before seeking any judicial remedy.

The text of “Part II: General Legislation,” Chapter 132, “Assemblies and Parades,” Section 132-9, “Notification of officials,” subsection A, in the Ithaca City Code, is amended as follows:

A. The [Mayor] City Manager.

The text of City Code Section 146-4 (B), titled “Administrative officers and functions,” is amended as follows:

§ 146-4 Administrative officers and functions.

B. Director of Planning and Development. The Director of Planning and Development or the Director of Code Enforcement if so designated by the Director of Planning and Development shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Director of Planning and Development or the Director of Code Enforcement if so designated by the Director of Planning and Development shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder. In the event that the Director of Code Enforcement is unable to serve as such for any reason, an individual shall be appointed by the City Manager [Mayor] to serve as Acting Director of Code Enforcement. The Acting Director of Code Enforcement shall, during the term of
his or her appointment, exercise all powers and fulfill all duties conferred upon the Director of Code Enforcement by this chapter.

(w) The text of City Code Section 152-5 titled “Regulation of franchise” is amended as follows:

§ 152-5 Regulation of franchise.

A. General. The City shall exercise appropriate regulatory authority under the provisions of this article and applicable federal and state law. This authority shall be vested in the City Manager and/or Common Council or their designee to provide day-to-day administration and enforcement of the provisions of this article and any franchise granted hereunder and to carry out the City's responsibility with regard to cable service. The City may from time to time adopt such reasonable rules and regulations that it may deem necessary in the exercise of its municipal powers; provided, however, that the same do not alter the terms and conditions of grantee's rights and obligations under this article or its franchise.

(x) The text of City Code Section 152-15 titled “Notices” is amended as follows:

§ 152-15 Notices.

Every notice to be served upon the City shall be sent by certified mail, postage prepaid, to the City Manager, City Attorney and City Clerk. Every notice to be served upon the grantee shall be sent by certified mail, postage prepaid, to the grantee at its Ithaca office.

(x) The text of City Code Section 152-34 titled “Regulation of franchise,” subsections 34(A)(1) and 34(E)(7)(a)(2), is amended as follows:

§ 152-34 Regulation of franchise.

A. Regulatory authority.

(1) Ongoing regulation. The City shall exercise appropriate regulatory authority under the provisions of this article and applicable law. This authority shall be vested in the Common Council and administered through the City Manager or his/her designee. The City Manager or his/her designee shall provide day-to-day administration and enforcement of the provisions of this article and any franchise granted hereunder, and shall carry out the City's responsibilities with regard to telecommunications.

E. Franchise fees and in-kind compensation.
(7) In-kind compensation and use of grantee's facilities.

(a) In addition to the franchise fee and linear foot fee, grantee shall provide the following in-kind compensation to the City:

…

[2] If grantee applies for a permit to install any facilities underground in the public right-of-way, then in addition to applying for all necessary permits, grantee shall notify, by certified mail, the City Manager at City Hall, Suite 401, 108 East Green Street, Ithaca, New York 14850, and the Director of Economic Development at City Hall, 108 East Green Street, Ithaca, New York 14850, in writing that grantee has applied for such a permit. The City shall have 45 business days from the date of receipt of notice from the grantee to notify grantee in writing whether it desires to install in grantee's trench(es) one four-inch-in-diameter-or-larger conduit with innerducts, at its sole cost and expense for the City's use or to use 5% of grantee's installed duct capacity, whichever is greater. The City's conduit with innerducts and facilities shall be allowed to have ingress and egress to pedestals, manholes, and underground vaults and access to the same. If the City does not meet the deadline specified above, grantee shall use reasonable efforts to accommodate late City requests for use of grantee's trench(es) and installation of conduit as specified herein. The City shall obtain any necessary governmental licenses or permits and any necessary governmental or private easements or authorizations required for the City's conduit at its sole cost and expense. The City's installation of the conduit shall not unduly delay grantee in constructing or installing its facilities. Grantee shall not charge the City for construction of the trench(es). The City, at its option, may elect to have grantee (rather than the City or its designee) install the one four-inch-in-diameter-or-larger conduit with innerducts and pull lines in the conduit for the City's use. The City shall own such conduit installed by itself, a designee, or the grantee. If grantee installs the City's conduit, grantee shall not charge the City for any portion of the construction and installation costs related to the grantee's network containing such City conduit that are incurred by grantee, but may charge the City, on an incremental basis, costs incurred by grantee for materials, permits, licenses, authorizations and engineering fees, if any, incurred by grantee for the City conduit ("costs"). If the City requested the grantee to construct and install the conduit, grantee shall provide the City with an itemized invoice and shall transfer ownership of said conduit to the City upon the City's payment of the costs within 30 days from the City's receipt of an itemized invoice from grantee. At the end of the term of grantee's franchise and any extensions or renewals thereof, or if the franchise is terminated for any other reason, the City, in its discretion and at its sole cost and expense, shall be entitled to continue its use of and access to the grantee's trench(es), pedestals, manholes, conduits and underground vaults, provided that the City has or will obtain any necessary licenses, authorizations, easements, permits and approvals that may be required. The City shall be required to maintain and operate said conduit at its sole cost and expense. Grantee and City shall not physically interfere with each other's conduit and facilities.

(y) The text of City Code Section 170-7, titled “Application procedure” is amended as follows:

§ 170-7 Application procedure.
K. If an application for a permanent easement or a lease is not denied by staff, the City Attorney shall submit the application to the City Manager[Mayor], together with any staff recommendations, for consideration by Common Council.

L. An appeal of a staff denial of an application for a lease, license, easement or permit shall be in writing, must include copies of the application (and any attachments) and the denial notice, and the grounds for the appeal, and shall be submitted to the City Manager[Mayor] within 15 days of the applicant’s receipt of such denial. If the City Manager[Mayor] grants the appeal, the application shall be remitted to the Board of Public Works or the Common Council, as appropriate per this chapter, for consideration. In any case, as noted above, whether to grant such application shall be in the sole discretion of the City.

(z) The text of City Code Section 170-9, titled “Form and terms of all licenses and permits” is amended as follows:

§ 170-9 Form and terms of all licenses and permits.

B. The City, through the City Manager[Mayor] or Superintendent, specifically reserves the right to revoke any permit or license if conditions warrant. Each license is revocable by the City in the event of an emergency, or upon no more than three months' notice (or such other period as is specified in the license or permit) to the licensee or permittee or upon failure of the licensee or permittee to comply with any term in the license or permit. Sufficient reasons to revoke a license or permit include but are not limited to insufficient maintenance by the licensee or permittee such that the encroachment or permitted use is rendered unsafe; or changes in the use of streets or sidewalks such that the encroachment or use has been rendered a public nuisance. The Superintendent shall notice the owner of the encroachment or permittee of the decision to revoke the license or permit and shall fix a reasonable time for removal of the encroachment or use, by the licensee or permittee, that is appropriate to the reason for the removal. Any person aggrieved by a decision of the Superintendent may file an appeal with the Board of Public Works, within 15 days of the receipt of the removal notice. The revocation notice shall include notification to the encroachment owner of the right to appeal and the time limitation for commencing an appeal.

(aa) The text of City Code Section 170-11, titled “Form and terms of leases and easements” is amended as follows:

§ 170-11 Form and terms of leases and easements.

Where the use of City land requires a lease or permanent easement (pursuant to this chapter), such lease or easement shall be in the form of a legally binding agreement signed by the City Manager[Mayor] and the tenant or easement beneficiary, and shall
be drafted and/or reviewed by the City Attorney prior to execution. The terms of such leases and easements shall be particular to the situation, for reasonable and proper consideration, and, unless otherwise specified herein (or by Common Council), subject to the approval of Common Council.

(bb) The text of City Code Section 181-8 (D), titled “Fire Prevention Bureau” is amended as follows:

§ 181-8 Fire Prevention Bureau.

3 D. Report to City Manager [Mayor]. A report of the Fire Prevention Bureau shall be made annually and submitted to the City Manager [Mayor]. It shall contain all enforcement actions under the Uniform Code, with such statistics as the Chief of the Fire Department may deem necessary to include therein. The Chief of the Fire Department may also recommend any amendments to this article as he/she may deem to be desirable.

The text of City Code Section 201-4, titled “Exemptions” is amended as follows:

§ 201-4 Exemptions.

A. High-level radioactive materials (not including high-level radioactive waste materials) transported by or for the United States government for military or national defense purposes are exempted from this article, and nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

B. High-level radioactive materials transported to or from or stored at and to be used by any medical facilities are exempted from this article. Valid operating certificates issued by the New York State Department of Health and the New York State Bureau of Radiological Health must be held by the medical facilities to qualify for this exemption. The City Manager [Mayor] and the Chief of Police of the City of Ithaca shall be notified two weeks prior to the date of shipment stating the route, the date and method of shipment, the time of passage, the destination and the type and quantity of high-level radioactive materials to be transported.

C. High-level radioactive materials transported to or from or stored at and to be used for educational research purposes at an accredited institution which is licensed by the New York State Bureau of Radiological Health or, in the case of interstate shipments, licensed by the equivalent government agency in the jurisdiction in which the institution using the radioactive material is located are exempted from this article. This exemption also applies to any educational institution licensed by the United States Nuclear Regulatory Commission. The City Manager [Mayor] and Chief of Police of the City of Ithaca shall be notified two weeks prior to the date of shipment, stating the route, the date and the method of
shipment, the time of passage, the destination and the type and quantity of high-level radioactive materials to be transported.

(cc) The text of City Code Section 215-17, titled “Handicapped Access Coordinator” is amended as follows:


The City Manager [Mayor] shall appoint a city employee to be the Americans with Disabilities or ADA [Handicapped] Access Coordinator for the City of Ithaca. The Coordinator shall help coordinate and facilitate city efforts to improve handicapped access, shall receive complaints from aggrieved persons and shall make every effort to ensure prompt and equitable resolution of complaints. The ADA Access Coordinator shall serve until a new appointment is made. If the person designated as ADA Access Coordinator leaves city employment, the City Manager [Mayor] shall name a replacement as soon as possible.

(dd) The text of City Code Section 232-54, titled “Additional regulations applicable to religious solicitations” is amended as follows:

§ 232-54 Additional regulations applicable to religious solicitations.

C. Advance notice shall be given to the City Manager [Mayor], in writing, at least 72 hours and not more than one month prior to the commencement of such solicitations, including the following information:

(ee) The text of City Code Section 240-13, titled “Permit procedures for events of temporary duration” is amended as follows:

§ 240-13 Permit procedures for events of temporary duration.

Except as provided for in § 157-8 of the City Code regarding the Ithaca Commons:

E. The application shall be made to the Superintendent of Public Works, or his/her designee, in connection with construction work on public rights-of-way or in parks; to the Director of Planning and Development, or his/her designee, for all other construction projects; and for others to the City Manager [Mayor] or his/her designee. The issuance of permits shall be discretionary, and a permit shall be issued only where the responsible official determines that such permit is reasonable and necessary and will allow an activity that is consistent with the general purposes of this chapter, as stated in § 240-2. When determining if a permit should be issued, factors the official shall consider shall include but are not limited to the volume of the noise, the proximity of the noise to sleeping facilities,
the time of the day or night the noise occurs, the time duration of the noise, and
the impact of the noise on persons living or working in different places or
premises who are affected by the noise. Any permit granted shall state that the
permit only applies to this chapter, and that § 240.20, Subdivision 2, of the Penal
Law of the State of New York, Disorderly Conduct, provides that "a person is
guilty of disorderly conduct when, with intent to cause public inconvenience,
annoyance or alarm or recklessly creating a risk thereof: . . . he makes
unreasonable noise."

F. In order to further the purposes of this chapter and to facilitate its implementation
and enforcement, the Superintendent of Public Works, the Director of Planning
and Development and the City Manager, or their designees, shall have
authority to impose such conditions as they determine are reasonable and
necessary on permits they issue pursuant to this section. Such conditions may
govern factors which include but are not limited to the time and location the
involved sound source may be utilized.

G. The Superintendent of Public Works, the Director of Planning and Development
and the City Manager, or their designees, shall provide the Chief of Police
with a copy of any permit issued pursuant to this section.

(ff) The text of City Code Section 240-14, titled “Variances” is amended as follows:

§ 240-14 Variances.

The City Manager or his/her designee may grant for a sustained duration an
individual variance from the limitations prescribed in this article whenever it is found,
after a noticed public hearing before the Planning and Economic Development
Committee of Common Council and upon presentation of adequate proof, that
compliance with any part of this article will impose an undue economic burden upon
any lawful business, occupation or activity, and that the granting of the variance will
not result in a condition injurious to health or safety.

A. Any variance, or renewal thereof, shall be granted within the following limitations:

(1) If the variance is granted on the grounds that compliance with the particular
requirement or requirements will necessitate the taking of measures which,
because of their extent or cost, must be spread over a considerable period of
time, it shall be for a period not to exceed such reasonable time as, in the view of
the City Manager or his/her designee, is requisite for taking of the
necessary measures. A variance granted on the ground specified in this
subsection shall contain a timetable for taking of action in an expeditious manner
and shall be conditioned on adherence to the timetable; or

(2) If the variance is granted on the ground that it is justified to relieve or prevent
hardship of a kind other than that provided for in Subsection A(1), it shall be for
not more than one year.

B. Any person seeking a variance shall file a petition for variance and a filing fee of
$50 with the City Manager or his/her designee. The City
Manager [Mayor] or his/her designee shall thereafter conduct a noticed public hearing in accordance with this section at a regularly scheduled meeting of the Planning and Economic Development Committee of Common Council, accept documentary and testimonial evidence in accordance with accepted administrative hearing procedures, and make a final decision regarding the granting of the variance.

C. Written notice of the public hearing, the time and place of which shall be set by the City Manager [Mayor] or his/her designee, shall be mailed by the petitioner at least 10 days prior to the hearing, with proof of mailing provided to the City Manager [Mayor] at least eight days prior to the hearing, to:

1. The owners as shown by the records of the County Assessor of lots comprising the site of the variance and lots within 200 feet, excluding public right-of-way, of the site of the variance;

2. Any neighborhood association if the site of the variance is within the neighborhood association's boundaries or within 200 feet of the neighborhood association's boundaries, excluding public right-of-way.

3. Any other person or entity that has filed with the City Manager [Mayor] a request to receive a notice of the variance proceeding.

D. The notice of hearing shall set forth the name and address of the petitioner, the location of the site of the variance, that the petitioner has requested a variance from this chapter, the nature of the requested variance, and that part of the chapter that would be waived if approved.

E. Following the hearing, the Chair of the Planning Committee [Mayor] or his/her designee shall render a written final decision, including findings of fact and conclusions of law, and [The Mayor or his/her designee] shall mail the decision to all parties of record.

(gg) The text of City Code Section 256-6, titled “Appeals” is amended as follows:

§ 256-6 Appeals.

Any person denied access to a record may, within 30 days, appeal such denial, in writing, to the City Manager [Mayor], who shall, within 10 business days of the receipt of such appeal, fully explain, in writing, to the person requesting the record the reasons for further denial or provide access to the record sought. In addition, the records access officer shall forward to the New York State Committee on Open Government a copy of such appeal and the determination thereon. If the City Manager [Mayor] affirms or modifies the denial, he/she shall communicate his/her reasons, in writing, to the person making the appeal and inform such person of his/her right to appeal such affirmation or modification pursuant to Article 78 of the Civil Practice Law and Rules.
C. Block parties and similar neighborhood gatherings, motorcades, parades, and public gatherings and assemblages, for which a street obstruction permit has been granted, are exempt from the insurance requirements set forth in § 342-38A above. Street obstruction permits for block parties and similar neighborhood gatherings shall be issued only upon the condition that no alcohol is consumed in the public rights-of-way. Street obstruction permits for block parties and similar neighborhood gatherings must be approved by the City Manager [Mayor] and the Superintendent.

(ii) Text of Chapter 346, titled “Vehicles and Traffic,” Article III, titled “Parking, Standing and Stopping,” Section 346-33, titled “Designation of emergency snow routes; restrictions pertaining thereto” in the Ithaca City Code, is amended as follows:

The [Mayor] City Manager is hereby authorized to declare that a snow emergency exists. The Board of Public Works is hereby authorized to determine and to designate and declare snow emergency routes for the purpose of this section. The locations described in Schedule XXVI of the traffic regulations of the Board of Public Works are hereby designated as snow emergency routes. It shall be unlawful to park or stand a motor vehicle, except for the expeditious loading or unloading of passengers, upon any portion of any emergency snow route during the period of time the [Mayor] City Manager has declared that a snow emergency exists.

Section 4. Severability Clause.
Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Effective Date.
This Ordinance shall take effect contingent upon approval of Local Law __, “Amendment of City Charter and Code to Enable the Common Council to Create a City Manager Position”, by the electors at referendum, in which event this Ordinance shall take effect on January 1, 2024, after publication as provided in the City Charter.
7.1 A Resolution to Approve Amendments to the Ithaca Energy Code Supplement


WHEREAS, the purpose of Article VII is to reduce greenhouse gas emissions from new construction and renovation of buildings, advance best practices in the design of affordable buildings, and facilitate a rapid and orderly transition to supply building energy needs from non-fossil fuel sources, and

WHEREAS, the IECS was adopted and implemented in May 2021, and

WHEREAS, periodically amending the IECS to ensure that it is clear and up-to-date is necessary to further the purposes of Article VII, and

WHEREAS, Section 146-57 requires Common Council approval for certain types of amendments to the IECS, including substantive changes to point values, and

WHEREAS, Common Council finds that updating the definitions contained in the IECS, making dormitories eligible to earn density points, adjusting point values to further incentivize the development of electric vehicle parking spaces, and making certain other changes will further the purposes of Article VII, now, therefore, be it

RESOLVED, that the Director of Planning and Development or her designee are hereby authorized to amend the IECS to implement the changes to definitions, OP1 Development Density, OP3 Electric Vehicle Parking Spaces, OP6 Custom Energy Improvement, and any and all other changes outlined in the memorandum submitted in connection with this resolution.
MEMO TO CITY ADMINISTRATION  January 19, 2023  
Proposed amendments #2 to the Ithaca Energy Code Supplement

Overview

The Ithaca Energy Code Supplement (IECS), adopted in 2021, is scheduled to become more stringent on January 1, 2023. Due to the updated regulations, the City will need to refile the IECS with New York State Fire Prevention and Building Code Council in January. In conjunction with the refiling, Town and City staff had collaborated on some amendments under consideration by both the Town and the City. The amendments are intended to bring clarification; however some may be considered to be substantive. (Other amendments which need more analysis and discussion will be considered later in 2023.)

Below are three proposed amendments to the IECS, and two proposed amendments to the IECS Reference Manual. Included in this memo is a red-lined version of the IECS which shows the exact changes proposed. Only the affected portions of the IECS are included in this document.

Proposed Amendments to the IECS

Amendment 1: Definitions.

For clarification and to avoid potential future issues, in 302 GENERAL DEFINITIONS, edit IECS definitions of FLOOR AREA and MAJOR RENOVATION and add a definition of HEATING PLANT.

OLD DEFINITION: FLOOR AREA – The total square footage of all levels as measured from the inside finished surface of the walls, but excluding outside courts, unconditioned garages, and uninhabitable crawl spaces and attics.

NEW DEFINITION: FLOOR AREA – The total floor surface of all levels as measured from the inside perimeter of the exterior or separation walls, exclusive of vent shafts, courts, and un-conditioned spaces.

HEATING PLANT – One or more appliances that serve as the primary source of heating for the building or space, whether located in the building or not.

MAJOR RENOVATION – Any construction or renovation to an existing structure, building, separated occupancy, tenant space, or unit under consideration, other than a repair or addition, that meets these two requirements where:

1) The WORK AREA exceeds seventy-five percent of the FLOOR AREA, and
2) The proposed work involves two or more of the following occur:
   a. Replacement or new installation of fifty percent or more of the rated capacity of the HEATING PLANT heating plant that serves the FLOOR AREA. Changes to air distribution.

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exhaust, or ventilation and air conditioning systems are not considered renovations of the heating system to the HEATING PLANT.

b. Construction that involves disassembly or uncovering of greater than fifty percent of the area of the above-grade portion(s) of the BUILDING THERMAL ENVELOPE that serves the FLOOR AREA in the building.

c. Changes to lighting, including but not limited to new installation, replacement, relocation, or removal of lamps, lighting, or other illumination fixtures in greater than 50% of the building throughout fifty percent or more of the FLOOR AREA. Space within a building interior FLOOR AREA that is not currently lit, and is not proposed to be lit, shall not count toward the fifty percent calculation.

Amendment 2: OP1 Development Density.

Through an oversight, dormitories are not currently eligible for this point, which was intended to be available to all buildings. Change IECS language to allow dormitories to earn this point.

C402.5.1 OP1 Development Density
C402.5.1.1 DU = the number of all Residential dwelling units and/or sleeping units on the entire parcel occupied by the building

C402.5.1.2 DU shall include all dwelling units and/or sleeping units on the parcel occupied by the building, including those in existing buildings.

R502.5.1 OP1 Development Density
R502.5.1.1 DU = the number of all Residential dwelling units and/or sleeping units on the entire parcel occupied by the building

R502.5.1.2 DU shall include all dwelling units and/or sleeping units on the parcel occupied by the building, including those in existing buildings.

Amendment 3: OP3 Electric Vehicle Parking Spaces.

Increase the number of points available for point OP3 from one to two and make each point easier to earn. Essentially, about the same number of EV chargers that would earn 1 point today will earn 2 points in 2023. This change is aligned with the existing rule where, effective January 1, 2023, all points awarded from the Efficient Electrification section will be doubled. The rationale is the same: the regional electric grid is cleaner than it was when the IECS was adopted, and getting cleaner, meaning that a switch from fossil fuels to electric power is more impactful than it used to be. These changes to the electrification section (already in IECS) and the EV Parking Spaces point (proposed) will help applicant projects attain the 12 points that will be required starting January 1, 2023.

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Replace **Table C402.5.3.1 (1)** and **Table R502.5.3.1 (1)** - Required Number of Electric Vehicle Parking Spaces with the following table (the same table is used for each section).

<table>
<thead>
<tr>
<th>Number of Dwelling Units (DU)</th>
<th># of EV Spaces Required for Residential Portion</th>
<th># of EV Spaces Required for Residential Portion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 6</td>
<td>NA</td>
<td>1</td>
</tr>
<tr>
<td>7 to 12</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>13 to 18</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>19 to 24</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>25 to 27</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>28 to 35</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>36 to 42</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>43 to 49</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

Complete calculations for Residential and Commercial space separately, add results, then round up to the nearest whole number. SR + SC = ST (Total EV Parking Spaces required)

<table>
<thead>
<tr>
<th>Area in units of 1,000 Sq. Ft (CA)</th>
<th># of EV Spaces Required for Commercial Portion</th>
<th># of EV Spaces Required for Commercial Portion</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>10</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>15</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>20</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>25</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>30</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>35</td>
<td>6</td>
<td>11</td>
</tr>
<tr>
<td>40</td>
<td>7</td>
<td>13</td>
</tr>
</tbody>
</table>

The numbers listed above are examples.

For 1 to 24 Dwelling Units:
EV Spaces required for each point SR = 0.081 × DU

For 25 or more Dwelling Units:
SR = [(0.13 × DU) + 1] ÷ 1.853

For all building sizes use the equation:
EV Spaces required for each point SC = 0.151 × CA

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Replace **Table C402.5.3.1 (2)** and **Table R502.5.3.1 (2)** - Sample Calculation for required number of EV Parking Spaces with the following table (the same table is used for each section).

<table>
<thead>
<tr>
<th>Sample Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>44,300 sq ft mixed-use building. 26 Dwelling Units (DU) and 6,000 sq ft Commercial Area (CA).</td>
</tr>
</tbody>
</table>

To earn one point
SR = [(0.13 × 26) + 1] ÷ 1.853
SR = (3.38 + 1) ÷ 1.853
SR = 4.38 ÷ 1.853 = 2.364

**2.364 EV spaces are required for Residential portion**

SC = 0.151 × 6
SC = 0.906

**0.906 EV spaces are required for Commercial portion**

ST = SR + SC rounded up
ST = 2.364 + 0.906 = 3.27, round up

**4 EV spaces are required for the building to earn one point.**

To earn two points
SR = 2.364 × 2 = 4.728
SC = 0.906 × 2 = 1.812
ST = SR + SC rounded up
ST = 4.728 + 1.812 = 6.54, round up

**7 EV spaces are required for the building to earn two points.**

In the following four sections:
- **C402.5.1 OP1 Development Density**
- **R502.5.1 OP1 Development Density**
- **C402.5.2 OP2 Walkability**
- **R502.5.2 OP2 Walkability**

Make the following change in the “Restrictions” paragraph.

Restrictions: A maximum of **two-three** points total may be earned for points using up to two (maximum) of the following: OP1 Development Density, OP2 Walkability, and OP3 Electric Vehicle Parking Spaces combined.

In the following two sections:
- **C402.5.3 OP3 Electric Vehicle Parking Spaces**
- **R502.5.3 OP3 Electric Vehicle Parking Spaces**

Make the following change.

**One point Up to two points** may be earned for installing ELECTRIC VEHICLE PARKING SPACE(s) and related infrastructure that meet the requirements of this subsection.

Restrictions: A maximum of **two-three** points total may be earned for points using up to two (maximum) of the following: OP1 Development Density, OP2 Walkability, and OP3 Electric Vehicle Parking Spaces combined.
Change tables C404.5 Changes in 2023 to Summary Table for Prescriptive Compliance Path/Easy Path and R504.5 Changes in 2023 to Summary Table for Prescriptive Compliance Path/Easy Path to show that up to two points may now be earned for OP3 and to restate the restriction noted above.

Change OP1 and OP2 details field.
1 point for achieving sufficient development density on the building parcel. A maximum of two-three points total may be earned for points OP1, OP2, and OP3 combined.

Change OP3 points available field.
1 - 2

Change OP3 Details field.
Up to 2 points 1 point for installing EV parking spaces and related infrastructure. A maximum of two-three points total may be earned for points OP1, OP2, and OP3 combined.

[end of amendments]

Additions to Reference Manual:

Addition 1: Definitions

HEATING PLANT: Examples of heating plants include, but are not limited to one or more boilers, furnaces, electric resistance heaters, and/or heat pumps.


There has been some confusion from applicants as to the best content and format of information to submit to show compliance with OP6 Custom Energy Improvement. The Reference Manual contains non-essential information to help understand and use the IECS, such as background information and commentary. To maintain flexibility, we are NOT amending the IECS. The following language and graphic are similar to what will be added to the Reference Manual.

To document point OP6, energy use data should be included for the following items.

1) Optional: Baseline, code-compliant building, NOT factoring in any beyond-code energy efficiency measures.
2) Baseline, code-compliant building, factoring in all energy efficiency measures EXCEPT those contributing to points for OP6 Custom Energy Improvement (see note 1). So, if EE1 and Ai5 are being used for compliance, those would be factored in here.
3) Baseline, code-compliant building, factoring in all efficiency measures INCLUDING OP6 Custom Energy Improvement (see notes 2 and 3). This is the proposed building.
4) Energy savings due to efficiency measures being used for OP6 (step 3 result minus step 2 result)
Note 1: Code-compliant means including all state and other codes EXCEPT Ithaca Energy Code Supplement.

Note 2: Please clarify in words what specific measures are being counted under OP6 (e.g., Energy recovery and better insulation) and the basic details of each measure. You can refer to other parts of your submission for details as applicable. This will help code staff complete plan review and building inspection.

Note 3: The point here is to isolate the measure(s) receiving credit under OP6, after all other improvements have been accounted for.