

RESOLUTION 2021- \_\_ APPROVE THE FOLLOWING AGREEMENTS: (A) AMENDMENT TO EASEMENT FOR OUTFALL PIPE FACILITIES, (B) AGREEMENT FOR ACCESS TO AND USE OF EFFLUENT AND ACCESS AGREEMENT, (C) EASEMENT TERMINATION AND RELOCATION AGREEMENT, AND (D) PROXIMITY DISCLOSURE AGREEMENT

WHEREAS, City Harbor, LLC, a New York limited liability company (“City Harbor”) is the owner of certain real property located at 101 Pier Road in the City of Ithaca, County of Tompkins, State of New York, designated as Tax Map Parcel Number 17.-1-1.3 (the “City Harbor Property”); and

WHEREAS, The Guthrie Clinic, a Pennsylvania non-profit corporation (“Guthrie” and, together with City Harbor, “Developers”), is the owner of certain real property located at 101 Pier Road in the City of Ithaca, County of Tompkins, State of New York, designated as Tax Map Parcel Number 17.-1-1.2 (the “Guthrie Property”); and

WHEREAS, the City of Ithaca, Town of Ithaca, and Town of Dryden (the “Municipalities”) collectively own and operate the Ithaca Area Wastewater Treatment Facility located at 525 Third Street in the City of Ithaca, County of Tompkins, State of New York (the “Facility”); and

WHEREAS, the Developers have met multiple times with the Special Joint Committee (the “SJC”) of the Facility and its designated representatives to discuss plans for development of the City Harbor Property and the Guthrie Property which involve multiple agreements with the Municipalities, and

WHEREAS, on August 21, 2019, the SJC adopted a resolution recommending the Municipalities enter into an agreement with City Harbor allowing its use of Facility effluent to heat and cool a development on City Harbor Property, pursuant to specified terms and conditions, and such effluent is also proposed to be used to heat and cool a development on Guthrie Property; and

WHEREAS, in relation with the developments on the City Harbor Property and Guthrie Property, on June 17, 2020, the SJC adopted a resolution recommending the Municipalities release a sewer easement, abandon in place an unused 30” outfall, and enter into a replacement easement with Developers; and

WHEREAS, representatives of the SJC and staff have negotiated the following four agreements with Developers: (A) Amendment to Easement for Outfall Pipe Facilities, (B) Agreement for Access To and Use of Effluent and Access Agreement, (C) Easement Termination and Relocation Agreement, and (D) Proximity Disclosure Agreement; and

WHEREAS, on May 26, 2020, the City Planning and Development Board, acting as Lead Agency in a coordinated environmental review of the Type I City Harbor and Guthrie developments, determined that the proposed City Harbor and Guthrie developments, and related actions encompassing the four agreements, will result in no significant adverse impacts on the environment, and the City Planning and Development Board issued a negative declaration of environmental significance for purposes of Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 New York State Environmental Quality Review; and

WHEREAS, on December 16, 2020, the SJC approved a resolution recommending approval of the four agreements, contingent on all Municipalities approving each agreement and on all such approvals becoming effective, and the SJC further recommended that the effective date of all four agreements occur simultaneously; and

**(A) AMENDMENT TO EASEMENT FOR OUTFALL PIPE FACILITIES**

WHEREAS, the Facility discharges treated sewage effluent (the “Effluent”) into Cayuga Lake by way of an outfall pipe owned by Municipalities (the “Discharge Pipe”) that runs through the City Harbor Property pursuant to an easement granted to the City of Ithaca (as Agent-Municipality, acting on behalf of itself, the Town of Ithaca, and the Town of Dryden, as tenants in common); and

WHEREAS, the Developers and Municipalities wish to amend this easement to establish and confirm the rights of City Harbor to construct and maintain within the easement parcel certain facilities and improvements necessary for the development and use of the City Harbor Property and the Guthrie Property (the “Amendment to Easement for Outfall Pipe Facilities”); and

**(B) AGREEMENT FOR ACCESS TO AND USE OF EFFLUENT AND ACCESS AGREEMENT**

WHEREAS, Developers intend to access and utilize the Effluent flowing through the Discharge Pipe in order to provide for the heating and cooling of improvements to be constructed upon the City Harbor Property and Guthrie Property, pursuant to a certain Agreement for Access To and Use of Effluent and Access Agreement by and among City Harbor, Guthrie, and Municipalities (the “Effluent Use Agreement”); and

**(C) EASEMENT TERMINATION AND RELOCATION AGREEMENT**

WHEREAS, as authorized in the Municipalities’ 1984 Joint Sewer Agreement, the City holds for the benefit of the three municipal owners of the Facility rights to (1) a 10-foot wide sewer easement, and (2) a 30” outfall pipe (30” Outfall) located therein that served the old City wastewater treatment plant and has not been used since the Facility began operations, (“Sewer Easement”); and

WHEREAS, City Harbor and Guthrie, property owners of the respective tax map parcels 17.-1-1.3 and 17-1-1.2 on which the Sewer Easement is located, have requested that the Municipalities release rights to the Sewer Easement and 30” Outfall; and

WHEREAS, City Harbor has offered to convey to the Municipalities a 20-foot wide replacement easement to run between Cascadilla Creek and the City property line along Pier Road (the “Replacement Easement”); and

WHEREAS, City of Ithaca and Town of Ithaca staff recognize the release of rights to the Sewer Easement and 30” Outfall and acceptance of the Replacement Easement offered by the Property Owners would not be detrimental to the Municipalities; and

WHEREAS, in consideration for, and to cover the expenses of, the release of its rights to the Sewer Easement and 30” Outfall, the Developers have agreed to pay the City of Ithaca \$2,500, and

WHEREAS, the Municipalities must undertake individual processes to authorize divestment of real property, which are subject to permissive referendum; and

**(D) PROXIMITY DISCLOSURE AGREEMENT**

WHEREAS, in connection with and as consideration for the execution of the Effluent Use Agreement and Easement Termination and Relocation Agreement among Developers and Municipalities that will allow improvements to be built on Developers’ properties, Municipalities have requested from Developers, and Developers have agreed to provide to Municipalities, a commitment to disclose their respective Property’s proximity to the Facility to each purchaser of or tenant leasing space within, upon, or for maritime docking adjacent to their Property;

**[If a municipality needs to hold public hearing, add a paragraph about the public hearing being held]**

now therefore be it

RESOLVED, that subject to the approval of **[the Attorney for the Town][the City Attorney]**, and subject to a permissive referendum as permitted by law for the approval of the Easement Termination and Relocation Agreement, that the **[Town Board of the Town of \_\_\_\_][this Common Council]** approves the following agreements and authorizes their execution by the **[Town Supervisor][Town Board][Mayor]**: (A) Amendment to Easement for Outfall Pipe Facilities, (B) Agreement for Access To and Use of Effluent and Access Agreement, (C) Easement Termination and Relocation Agreement, and (D) Proximity Disclosure Agreement, contingent on all Municipalities approving each agreement and on all such approvals becoming effective; and be it further

RESOLVED, that the four agreements shall be finalized so that the effective date of the: (A) Amendment to Easement for Outfall Pipe Facilities, (B) Agreement for Access To and Use of Effluent and Access Agreement, (C) Easement Termination and Relocation Agreement, and (D) Proximity Disclosure Agreement occur simultaneously.