AGENDA
PLANNING COMMITTEE & FINANCE COMMITTEE
Tuesday, August 4, 2020
7:00 PM
https://zoom.us/j/96111777370

Planning Committee: Steve Uebbing, Chair
Jim Terwilliger
Nick Cutri
Dan Unrath

1. **Closing Downtown Parking Lot for Outdoor Dining**
One of the industries hit hardest by the COVID-19 Pandemic was the restaurant industry. Even as New York State continues the process of reopening, restaurants continue to deal with occupancy restrictions that threaten their ability to remain in business. To combat these restrictions and remain compliant with State guidelines, several restaurants in the City have started offering outdoor dining. The response to outdoor dining has been so positive, in fact, that restaurant owners have approached the City to explore options to expand the service. Originally, Phoenix Street was identified as the location for such a space, but the lack of agreement amongst property owners and business owners on the street resulted in alternatives to be explored. The alternative is the parking lot between the Simply Crêpes and the Chamber of Commerce to allow more outdoor dining that would benefit multiple restaurants and create a unique pedestrian space for Downtown Canandaigua. Simply Crepes would hold the liquor license for this space, which is estimated to be able to accommodate 100 patrons at socially distant tables. Any restaurant Downtown would be able to display its menu for delivery or take-out for diners. The BID and LDC have committed funds for shade sails and string lighting that will span between the two buildings as well as funding for additional garbage disposal. Denise Chaapel, Executive Director of the BID, has been invited to the meeting to discuss the proposal and answer questions for Council as well as representatives of Simply Crêpes and the Chamber.

2. **Small Business Loan Program Deferments**
In response to COVID-19, many businesses were required to close or substantially change or suspend operations to comply with State guidance. This impacted small businesses throughout in the City of Canandaigua, including those who have taken advantage of the City's Small Business Loan Program. City Council passed Resolution #2020-027 authorizing deferments for the Small Business Loan Program payments for ninety (90) days. With that ninety (90) day period now lapsed, some of the businesses in the Small Business Loan Program continue to struggle, with one still unable to reopen due to State guidelines. Staff recommends implementing an additional ninety (90) day forbearance period for the Small Business Loan Program in the hope the additional forbearance will allow businesses in the program to regain their financial footing.

3. **Request to Build Fence on Right-of-Way**
Laguna Grande, a new Mexican restaurant, recently opened in the building previously occupied by Catch 407. Since opening, however, there have been several incidents involving restaurant patrons and those staying at the Woodridge Motel. It is being reported that neighboring residents have been caught sleeping and hanging out on restaurant property, cutting through the property, and creating problems with customers trying to enjoy meals and/or waiting for a table. Despite trying to resolve it with the motel property manager and needing to call the police on multiple occasions, Woodridge residents continue to trespass on the Laguna Grande property. The property owners are requesting the City permit them to construct a fence on a portion of the right-of-way ending at the sidewalk in an effort to address this nuisance. New York State General City Law §38-a permits a City, upon a written request and public hearing, to grant permission to maintain an encroachment on the public right-of-way. The City has received similar requests in the past and has granted permission for encroachments when appropriate. City staff has

reviewed the request and does not believe that it will cause a public safety hazard, any line-of-sight issues, or restrict pedestrian or vehicular traffic on the street or sidewalk (see attached map) Property owner Sarah Genecco will be at the meeting to discuss this request and answer questions for Council.

4. **2020 Census**
Thus far the participate rate within the City of Canandaigua (53.2%) and New York State (57.1%) is behind the national average (62.1%). The results of the 2020 Census will help determine how federal funding flows into communities every year for a decade. It also impacts the number of congressional districts in New York State. In mid-March, households received official Census Bureau mail with detailed information on how to respond to the 2020 Census https://2020census.gov/en.html and the self-enumeration period has been extended until October 31st from August 15th. This was added to the agenda in an effort to remind all residents of the importance of completing the Census questionnaire.

5. **Policy Discussion Follow-Up** Last months discussion on this topic concluded with Councilmember Uebbing offering to contact NYCOM, poll Councilmembers, and create a preliminary list to provide a baseline for the scope of the project. This item has been added to the agenda for continued discussion.

Finance Committee: Jim Terwilliger, Chair
Nick Cutri
Steve Uebbing
Erich Dittmar

1. **Cell Tower Lease Amendments**
The City leases space at the Water Resource Recovery Facility (also known as Waste Water Treatment Plant) for a cell tower and related facilities. Although the lease agreement does not expire until May 31, 2033, American Tower on behalf of Verizon has requested an amendment to extend the lease for three (3) additional five (5) year renewal terms. In exchange for the extension, Verizon will pay the City a one-time payment of $13,000 and 25% of any rents from new sub-lessees. City Staff recommends that the lease extension be approved.

2. **Budget Amendment Gas Tank**
The City has received notification from New York State Department of Environmental Conservation (NYSDEC) that New York State Electric & Gas (NYSEG) discovered five (5) orphaned underground storage tanks (USTs) in the right-of-way in front of 25 Ontario Street, along with petroleum contaminated soil. NYSEG removed four (4) of the five (5) tanks and properly disposed of the contaminated soil surrounding them that interfered with their gas main replacement project. The fifth tank was left in place in the right-of-way and the NYSDEC has declared the City of Canandaigua as the property owner responsible for its removal as well as determining the full extent of any impacts to soil and groundwater. The City has ten (10) days from the receipt of the letter (July 27, 2020) to claim responsibility for the removal and remediation of the last tank. If the City refuses, the NYSDEC will hire its own contractor to complete the work and bill the City for “all direct and indirect costs associated with the UST removal and any investigation and remediation of the site.” Funding for this work was not included in the 2020 Budget, and Staff is requesting a Budget Amendment in the amount of $5,000 to cover the cost of the project. Jim Sprague will be at the meeting to discuss the request and answer questions for Council.

3. **Surplus Vehicle**
The following City vehicle has reached its useful life and is now surplus to requirements:

2013 Chevrolet Impala #2G1WD5E39D1249656

Staff would like to dispose of the vehicle at a public auction, through sealed bids or to be traded in on future equipment purchases pursuant to City and State purchasing guidelines. In order to do so, City Council must declare the vehicle as surplus. Jim Sprague will be at the meeting to discuss this request and answer questions for Council.

4. **Audit Recommendations**
City Councilmember Jim Terwilliger requested a review of the 2017, 2018 and 2019 audit recommendations and the resulting actions. Attached is a summary of the recommendations and the actions taken to address the recommendations.

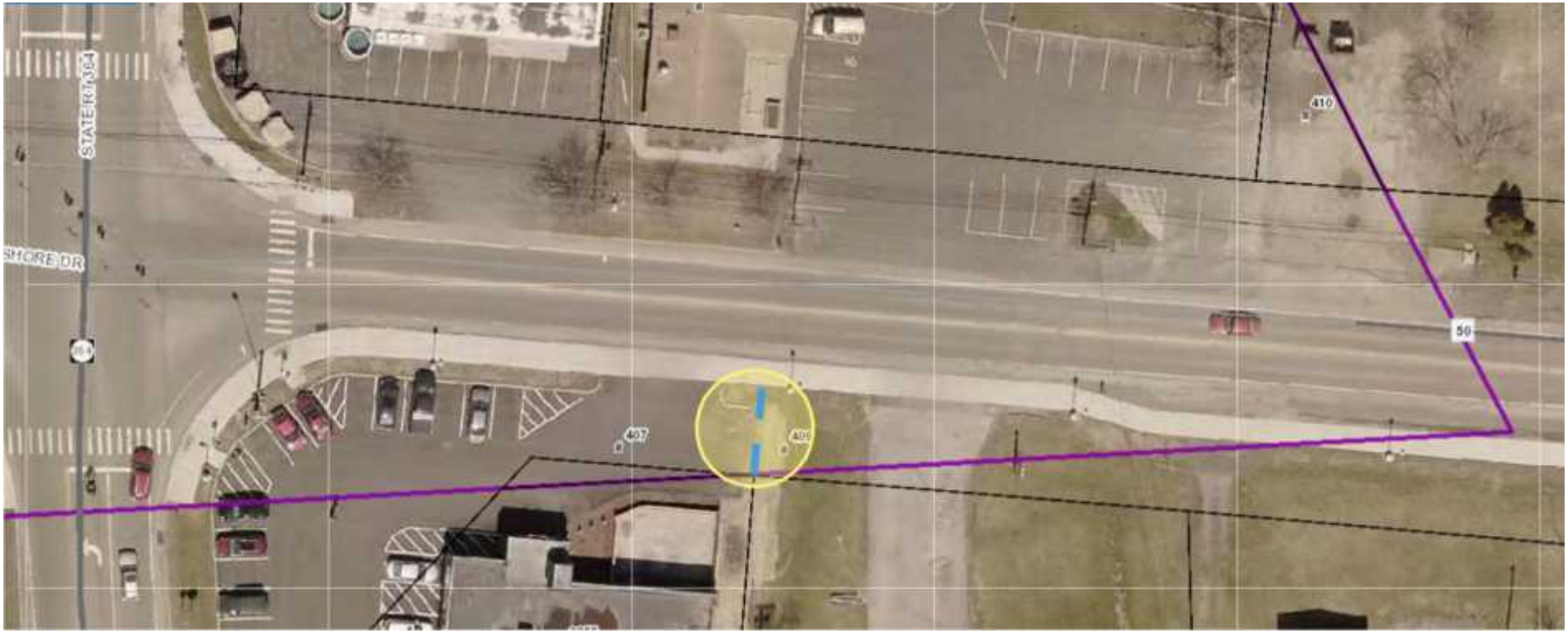
5. **Six (6) Month Financial Review & Year End Projections**
Clerk/Treasurer Nancy Abdallah will review the six (6) month financials with the Committee at the meeting, and discuss projections for how the COVID-19 pandemic will impact year end financials. The spreadsheet will be distributed at the meeting.

Next Meeting: September 1, 2020

KEY

Purple Line – City Border

Yellow Circle with Blue Line – Area of the right of way and proposed fence



THE FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement (this "***Amendment***") is made effective as of the latter signature date hereof (the "***Effective Date***") by and between **City of Canandaigua**, a New York municipal corporation ("***Landlord***") and **Bell Atlantic Mobile Systems of Rochester, Limited Partnership d/b/a Verizon Wireless** ("***Tenant***") (Landlord and Tenant being collectively referred to herein as the "***Parties***").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "***Parent Parcel***"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Lease Agreement dated April 23, 2008 (as the same may have been amended, collectively, the "***Lease***"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "***Leased Premises***"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Tenant, Verizon Communications Inc., a Delaware corporation, and other parties identified therein, entered into a Management Agreement and a Master Prepaid Lease, both with an effective date of March 27, 2015 and both with ATC Sequoia LLC, a Delaware limited liability company ("***American Tower***"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein; and

WHEREAS, Tenant has granted American Tower a limited power of attorney (the "***POA***") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment**. Tenant shall pay to Landlord a one-time payment in the amount of **Thirteen Thousand and No/100 Dollars** (**$13,000.00**), payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before July 31, 2020; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.

2. **Lease Term Extended**. Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on June 1, 2008 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "***Existing Renewal Term***" and, collectively, the "***Existing Renewal Terms***"), the Lease is otherwise scheduled to expire on May 31, 2033. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of three (3) additional five (5) year renewal terms (each a "***New Renewal Term***" and, collectively, the "***New Renewal Terms***"). Notwithstanding anything to the contrary contained in the Lease, as modified by this Amendment, (a) all Existing Renewal Terms and New Renewal Terms shall

automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate the Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "***Renewal Term***" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "***Memorandum***") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** The Parties hereby acknowledge and agree that all applicable increases and escalations to the rental payments under the Lease (the "Rent") shall continue in full force and effect through the New Renewal Term(s). In the event of any overpayment of Rent or Collocation Fee (as defined below) prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid to Landlord under the Lease shall be paid to **City of Canandaigua NY** by Tenant. Provided, however, in the event that any current sublessee, licensee or any other collocator of Tenant is paying said Rent or any other payments to **City of Canandaigua NY** directly as of the Effective Date of the Amendment, Tenant shall not be obligated to make such payments to **City of Canandaigua NY**.

4. **Revenue Share**.

   a. Subject to the other applicable terms, provisions, and conditions of this Section, Tenant shall pay Landlord **twenty-five percent (25%)** of any rents actually received by Tenant or American Tower under and pursuant to the terms and provisions of any new sublease, license or other collocation agreement for the use of any portion of the Leased Premises entered into by and between Tenant (or American Tower) and a third party (any such third party, the "***Additional Collocator***") subsequent to the Effective Date (any such amounts, the "***Collocation Fee***"). Notwithstanding the foregoing, Landlord shall not be entitled to receive any portion of any sums paid by a licensee or sublessee to reimburse Tenant (or American Tower) in whole or in part, for any improvements to the Leased Premises or any structural enhancements to the tower located on the Leased Premises (such tower, the "***Tower***"), or for costs, expenses, fees, or other charges incurred or associated with the development, operation, repair, or maintenance of the Leased Premises or the Tower. The Collocation Fee shall not be subject to the escalations to Rent, if any, as delineated in this Amendment and/or the Lease. To the extent the amount of rents actually received by Tenant (or American Tower) from an Additional Collocator escalate or otherwise increase pursuant to those agreements, the Collocation Fee shall be based on such increased amount.

   b. The initial payment of the Collocation Fee shall be due within thirty (30) days of actual receipt by Tenant (or American Tower) of the first collocation payment paid by an Additional Collocator. In the event a sublease or license with an Additional Collocator expires or terminates, Tenant's obligation to pay the Collocation Fee for such sublease or license shall automatically terminate upon the date of such expiration or termination. Notwithstanding anything contained herein to the contrary, Tenant shall have no obligation to pay to Landlord and Landlord hereby agrees not to demand or request that Tenant pay to Landlord any Collocation Fee in connection with the sublease to or transfer of

Tenant's obligations and/or rights under the Lease, as modified by this Amendment, to any subsidiary, parent or affiliate of Tenant or American Tower.

c. Landlord hereby acknowledges and agrees that Tenant and American Tower have the sole and absolute right to enter into, renew, extend, terminate, amend, restate, or otherwise modify (including, without limitation, reducing rent or allowing the early termination of) any future or existing subleases, licenses or collocation agreements for occupancy on the Tower, all on such terms as Tenant and/or American Tower deem advisable, in Tenant's and/or American Tower's sole and absolute discretion, notwithstanding that the same may affect the amounts payable to the Landlord pursuant to this Section.

d. Notwithstanding anything to the contrary contained herein, Landlord hereby acknowledges and agrees that Tenant shall have no obligation to pay and shall not pay to Landlord any Collocation Fee in connection with: (i) any subleases, licenses, or other collocation agreements between Tenant (or American Tower), or Tenant's (or American Tower's) predecessors-in-interest, as applicable, and American Tower or any third parties, or such third parties' predecessors or successors-in-interest, as applicable, entered into prior to the Effective Date (any such agreements, the "***Existing Agreements***"); (ii) any amendments, modifications, extensions, renewals, and/or restatements to and/or of the Existing Agreements entered into prior to the Effective Date or which may be entered into on or after the Effective Date; (iii) any subleases, licenses, or other collocation agreements entered into by and between Tenant (or American Tower) and any Additional Collocators for public emergency and/or safety system purposes that are required or ordered by any governmental authority having jurisdiction at or over the Leased Premises; or (iv) any subleases, licenses or other collocation agreements entered into by and between Tenant (or American Tower) and any Additional Collocators if the Landlord has entered into any agreements with such Additional Collocators to accommodate such Additional Collocators' facilities outside of the Leased Premises and such Additional Collocators pay any amounts (whether characterized as rent, additional rent, use, occupancy or other types of fees, or any other types of monetary consideration) to Landlord for such use.

e. Within thirty (30) days after Tenant's receipt of Landlord's written request, Tenant shall provide Landlord with a statement showing the number of Additional Collocators installed on the Tower, the rents collected by Tenant from the Additional Collocators, and the Collocation Fee due from Tenant to Landlord.

5. **Landlord and Tenant Acknowledgments**. Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, including subleasing to American Tower, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses and confirmation that no additional consideration is owed to Landlord for such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in the Lease, as modified by this Amendment. However, Tenant shall be provide Landlord prior written notice of its intent to install, modify, repair, or replace improvements within the Leased Premises. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a

24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense and for no additional consideration to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment until the expiration of this Amendment.

6. **Non-Compete**. During the original term, any Existing Renewal Terms, and/or any New Renewal Terms of the Lease, as modified by this Amendment, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Parent Parcel or Landlord's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "***Third Party Competitor***") without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant's sole, reasonable discretion.

7. **Limited Right of First Refusal**. Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor or to American Tower. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "***Offer***"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than thirty (30) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment until the expiration date of this Amendment. For the avoidance of doubt, American Tower, its affiliates and subsidiaries, shall not be considered a Third Party Competitor and this provision shall not apply to future transactions with American Tower, its affiliates and subsidiaries.

8. **Landlord Statements**. Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (iv) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future)

adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; (v) so long as Tenant performs its obligations under the Lease, Tenant shall peaceably and quietly have, hold and enjoy the Leased Premises, and Landlord shall not act or permit any third person to act in any manner which would interfere with or disrupt Tenant's business or frustrate Tenant or Tenant's customers' use of the Leased Premises and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment until the expiration of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment until the expiration of this Amendment.

9. **Tenant Statements.** Tenant hereby represents and warrants to Landlord that: (i) to the extent applicable, Tenant is duly organized, validly existing, and in good standing in the jurisdiction in which Tenant was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Tenant has the full power and authority to enter into and perform its obligations under the Lease and this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Tenant, have the authority to enter into and deliver this Amendment on behalf of Tenant; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Tenant of this Amendment. Tenant hereby does and agrees to indemnify Landlord for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Landlord as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive until the expiration of this Amendment.

10. **Insurance.** Tenant shall at all times during the term(s) hereof and at Tenant's sole cost and expense maintain in effect Worker's Compensation insurance with statutory limits and General Liability insurance to cover bodily injury and property damage, adequate to protect Landlord against liability for bodily injury or death of any person in connection with the use, operation and condition of the Leased Premises, in an amount not less than Three Million and No/100 Dollars ($3,000,000.00) of combined single limit bodily injury and property damage coverage with not less than Six Million and No/100 Dollars ($6,000.000.00) in the aggregate. These limits can be met using the general liability policy limits and umbrella/excess limits. Such policy shall cover the Leased Premises and include Landlord as an additional insured.

11. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant or American Tower in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.

12. **Notices**. The Parties acknowledge and agree that Section 17 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by

nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 2 North Main Street, Canandaigua, NY 14424; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801; and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

13. **Counterparts**. This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.

14. **Waiver**. Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.

15. **Tenant's Securitization Rights; Estoppel**. Landlord hereby consents to the granting by Tenant and/or American Tower of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "***Security Interest***") in Tenant's (or American Tower's) interest in the Lease, as amended, and all of Tenant's (or American Tower's) property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's (or American Tower's) mortgagee ("***Tenant's Mortgagee***") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "***Holder***") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant and/or American Tower hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant, American Tower or Holder.

16. **Taxes**. The Parties acknowledge and agree that Section 8 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to taxes shall be controlled by this Section of this Amendment. During the term of the Lease, as modified by this Amendment, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises, provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA*

01801 unless otherwise directed by Tenant in writing from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within thirty (30) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

17. **Deletions**. The Parties acknowledge and agree that Sections 16(b) and 16(d) of the Lease are hereby deleted in their entirety and are of no further force and effect.

18. **Conflict/Capitalized Terms**. The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.

[*SIGNATURES COMMENCE ON FOLLOWING PAGE*]

LANDLORD:

City of Canandaigua,
a New York municipal corporation,

Signature: _____
Print Name: _____
Title: _____
Date: _____

[*SIGNATURES CONTINUE ON FOLLOWING PAGE*]

TENANT:

Bell Atlantic Mobile Systems of Rochester, Limited Partnership d/b/a Verizon Wireless

By: ATC Sequoia LLC, a Delaware limited liability company
Title: Attorney-in-Fact

Signature: _____
Print Name: _____
Title: _____
Date: _____

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

All that tract or parcel of land situate in the City of Canandaigua, County of Ontario, State of New York, being a part of TM #84.14-1-7 and being more specifically described as a 30' x 70' area shown on "Bell Atlantic Mobile of Rochester L.P. dba Verizon Wireless Canandaigua DT Cell Site (NYROC751) Schematic Compound Lease Exhibit Project #20061853332" dated February 8, 2008, CE #4171-EXH3 and attached hereto.

All that tract or parcel of land situate in the City of Canandaigua, County of Ontario, State of New York, being a part of TM #84.14-1-7 and a part of TM#84.14-1-1 being more specifically described as a 30' wide ingress/egress and utility easement from Parcel I herein to Saltonstall Street as shown on "Bell Atlantic Mobile of Rochester L.P. dba Verizon Wireless Canandaigua DT Cell Site (NYROC751) Schematic Compound Lease Exhibit Project #20061853332" dated February 8, 2008, CE #4171-EXH3 and attached hereto; which includes the use and benefits extended under an Easement parcel vested in City of Canandaigua pursuant to an Agreement of Easement from Canandaigua Mobile Home Park Inc. to the City of Canandaigua dated July 15, 1998 and recorded September 14, 1998 in Liber 1001 of Deeds, page 792

Tax Parcel No. 320200-084-014-0001-007-000

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The Square footage of the Leased Premises shall be the greater of: (i) 2,100 square feet; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way.

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

ATC Site No: 415364
VZW Site No: 173856
Site Name: Canandaigua DT NY

Prepared by and Return to:
American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management/Emily Lacy, Esq.
ATC Site No: 415364
ATC Site Name: Canandaigua DT NY
Assessor's Parcel No(s): 320200-084-014-0001-007-000

MEMORANDUM OF LEASE

This Memorandum of Lease (the "***Memorandum***") is entered into as of the latter signature date hereof, by and between **City of Canandaigua,** a New York municipal corporation ("***Landlord***") and **Bell Atlantic Mobile Systems of Rochester, Limited Partnership d/b/a Verizon Wireless** ("***Tenant***").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease**. Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "***Parent Parcel***"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Lease Agreement dated April 23, 2008 (as the same may have been amended from time to time, collectively, the "***Lease***"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "***Leased Premises***"), which Leased Premises is also described on **Exhibit A**.

2. **American Tower**. Tenant, Verizon Communications Inc., a Delaware corporation, and other parties identified therein, entered into a Management Agreement and a Master Prepaid Lease, both with an effective date of March 27, 2015 and both with ATC Sequoia LLC, a Delaware limited liability company ("***American Tower***"), pursuant to which American Tower subleases, manages, operates and maintains, as applicable, the Leased Premises, all as more particularly described therein. In connection with these responsibilities, Tenant has also granted American Tower a limited power of attorney (the "***POA***") to, among other things, prepare, negotiate, execute, deliver, record and/or file certain documents on behalf of Tenant, all as more particularly set forth in the POA.

3. **Expiration Date**. Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be May 31, 2048. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.

4. **Leased Premises Description**. Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.

5. **Limited Right of First Refusal**. There is a limited right of first refusal in the Lease.

6. **Effect/Miscellaneous**. This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.

7. **Notices**. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 2 North Main Street, Canandaigua, NY 14424; to Tenant at: Verizon Wireless, Attn.: Network Real Estate, 180 Washington Valley Road, Bedminster, NJ 07921; with copy to: American Tower, Attn.: Land Management, 10 Presidential Way, Woburn, MA 01801, and also with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

8. **Counterparts**. This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

9. **Governing Law**. This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State of New York.

[*SIGNATURES COMMENCE ON FOLLOWING PAGE*]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

City of Canandaigua,
a New York municipal corporation,

Signature: _____
Print Name: _____
Title: _____
Date: _____

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State of New York

County of Ontario

On this ____ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

Bell Atlantic Mobile Systems of Rochester, Limited Partnershipd/b/a Verizon Wireless

By: ATC Sequoia LLC,
a Delaware limited liability company
Title: Attorney-in-Fact

Signature: _____
Print Name: _____
Title: _____
Date: _____

WITNESS

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

All that tract or parcel of land situate in the City of Canandaigua, County of Ontario, State of New York, being a part of TM #84.14-1-7 and being more specifically described as a 30' x 70' area shown on "Bell Atlantic Mobile of Rochester L.P. dba Verizon Wireless Canandaigua DT Cell Site (NYROC751) Schematic Compound Lease Exhibit Project #20061853332" dated February 8, 2008, CE #4171-EXH3 and attached hereto.

All that tract or parcel of land situate in the City of Canandaigua, County of Ontario, State of New York, being a part of TM #84.14-1-7 and a part of TM#84.14-1-1 being more specifically described as a 30' wide ingress/egress and utility easement from Parcel I herein to Saltonstall Street as shown on "Bell Atlantic Mobile of Rochester L.P. dba Verizon Wireless Canandaigua DT Cell Site (NYROC751) Schematic Compound Lease Exhibit Project #20061853332" dated February 8, 2008, CE #4171-EXH3 and attached hereto; which includes the use and benefits extended under an Easement parcel vested in City of Canandaigua pursuant to an Agreement of Easement from Canandaigua Mobile Home Park Inc. to the City of Canandaigua dated July 15, 1998 and recorded September 14, 1998 in Liber 1001 of Deeds, page 792

Tax Parcel No. 320200-084-014-0001-007-000

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The Square footage of the Leased Premises shall be the greater of: (i) 2,100 square feet; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way.

Instructions for completing the Resolution and Consent Affidavit

IMPORTANT INFORMATION BELOW

In order to avoid delays in the completion of this transaction, the Resolution and Consent Affidavit must be signed by ***ALL*** Members, Partners, Directors, Shareholders, Officers or Trustees of the organization. Section 6 of this form allows for the organization to appoint one person to sign the remaining documents but ***ONE HUNDRED PERCENT (100%)*** of the ownership or voting interest of the organization must sign this first. Failure to comply with these instructions or properly indicate the percentage of ownership and/or voting interest will result in delays and could require the documents to be re-executed. If you have any questions, please contact your land lease representative.

Prepared by and Return to:
American Tower
Attn: Land Management/Emily Lacy, Esq.
10 Presidential Way
Woburn, MA 01801
Assessor's Parcel No(s): 320200-084-014-0001-007-000

RESOLUTION AND CONSENT AFFIDAVIT

City of Canandaigua, a New York municipal corporation,

Be it known that, under the pains and penalties of perjury, the undersigned Members, Partners, Directors, Shareholders, Officers or Trustees, as applicable (collectively, the "***Affiants***") of the above referenced entity (the "***Landlord***"), hereby declare and resolve the following:

1. Landlord (or its predecessor-in-interest) has leased or subleased a portion of land to **Bell Atlantic Mobile Systems of Rochester, Limited Partnershipd/b/a Verizon Wireless** (the "***Tenant***") pursuant to that certain Lease Agreement dated April 23, 2008 (as the same may have been amended from time to time, collectively, the "***Lease***").

2. Landlord and Tenant desire to enter into an amendment of the Lease (the "***Amendment***") in order to extend the term thereof and to further amend the Lease as more particularly set forth in the Amendment.

3. Landlord is duly organized, validly existing, and in good standing in the jurisdiction of its formation, organization, and/or incorporation, as applicable, and is otherwise authorized to transact business and in good standing in any other jurisdictions where such qualifications are required. Landlord has full power and authority to enter into and perform Landlord's obligations under the Amendment and the other Transaction Documents (as hereinafter defined), and the Amendment and the other Transaction Documents have been duly executed and delivered by Landlord. The Affiants listed below are the only legal and equitable owners of Landlord and are the only members, partners, directors, shareholders, officers and/or trustees, as applicable, of Landlord.

4. The Affiants hereby approve of the Transaction Documents and all of the terms and provisions contained therein and declare, resolve and/or affirm, as applicable, that Landlord is hereby authorized to enter into the Transaction Documents with Tenant and effect the transactions contemplated therein. The Affiants hereby declare and affirm that any other corporate and shareholder, member, partner, and/or trustee actions required to effectuate the transactions contemplated in the Amendment and other Transaction Documents have been completed.

5. The Affiants also declare that they have full legal authority to bind Landlord under the laws of the State or Commonwealth in which the Leased Premises (as defined in the Amendment) is located,

and Affiants have the full authority to execute any and all of the Transaction Documents on behalf of Landlord and to nominate individuals to act on Landlord's behalf.

6. The Affiants hereby nominate the below listed individual (the "***Nominee***") as attorney-in-fact to execute and deliver the Amendment, together with any other documents and agreements, including, without limitation, the Memorandum (as defined in the Amendment), required to be executed and delivered pursuant to the terms and provisions of the Amendment (the Amendment and all of such other aforementioned agreements and documents, collectively, the "Transaction Documents"), on behalf of Affiants and Landlord. The Nominee shall have full power and authority to act on behalf of Affiants and on behalf of Landlord for purposes of executing and delivering the Transaction Documents and ensuring that Landlord fulfills its obligations thereunder. Additionally, the Nominee shall have full authority to direct the manner in which all payments made by Tenant pursuant to the Amendment are to be made to Landlord, including, without limitation, identifying which bank account(s) to transfer funds to in the event a wire payment is made by Tenant.

NOMINEE: (Print Name) _____
(Address) _____
_____
_____

7. This Resolution and Consent Affidavit shall become effective as of the date of the last notarized signature of the Affiants listed below.

8. Affiants hereby acknowledge and agree that Tenant, its lenders, and its title insurance company are relying upon, and are entitled to rely upon, this Resolution and Consent Affidavit and the contents hereof as a material inducement to entering into the Amendment and other Transaction Documents. Tenant, its lenders, and its title insurance company may rely upon a faxed, scanned or otherwise electronically reproduced fully-executed copy of this document as if it were an original.

9. This document can only be amended or modified by addendum or an amendment that is fully executed and notarized by all Affiants listed hereunder.

[*SIGNATURES COMMENCE ON FOLLOWING PAGE*]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 1

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 2

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 3

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 4

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 5

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW

AFFIANT NO. 6

Signature: _____
Print Name: _____
Date: _____

Title: (*circle one*) Member, Partner, Director, Shareholder, Officer, Trustee

Percentage Ownership or Voting Interest:
_____%

2 WITNESSES

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202___, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public
Print Name: _____
My commission expires: _____ [SEAL]

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Spill Prevention and Response Program, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
P: (585) 226-5433 I F: (585) 226-8139
www.dec.ny.gov

{sent by email only to JPS@canandaiguanewyork.gov}

July 27, 2020

Mr. James Sprague, P.E.
Director of Public Works
City of Canandaigua
205 Saltonstall Street
Canandaigua, New York 14424

Subject: Orphaned Underground Storage Tank
Right-of-Way In Front Of 25 Ontario Street
Canandaigua (C), Ontario County
NYSDEC Spill No. 2002378

Dear Mr. Sprague:

Between about June 30 and July 21, 2020, New York State Electric and Gas (NYSEG) discovered 5 orphaned underground storage tanks (USTs) in the right-of-way in front of 25 Ontario Street, along with associated petroleum contaminated soil. NYSEG removed and properly disposed of four of the USTs, including removing and properly disposing of contaminated soil surrounding the tanks, that were in the way of their gas main project. The fifth UST was left in place by NYSEG.

The purpose of this letter is to notify you that NYSDEC considers the City of Canandaigua, as the property owner, responsible for the fifth UST and for Spill No. 2002378. The Department is requiring the UST be removed by a qualified contractor following standard UST closure protocol, including the collection of confirmation samples. As required by Article 12 of the Navigation Law and/or Article 17 of the New York State Environmental Conservation Law, the full extent of any impacts to soil and groundwater will have to be determined. Following the required investigation, appropriate remedial measures, if necessary, will then need to be implemented.

Please advise this office within **10 days** of receipt of this letter if you will accept financial responsibility for the UST removal and any necessary investigation and remediation. Refusal to accept financial responsibility will result in the Department hiring a contractor to conduct the work, and lead to the payment of the bill by the NYS Oil Spill Compensation Fund. The State will then bill you for all direct and indirect costs associated with the UST removal and any investigation and remediation of the site.

If you require additional information or have any questions or comments, please contact me at the above address or by telephone at (585) 226-5322.

Sincerely,

Gregory Young

Digitally signed by Gregory Young
DN: cn=Gregory Young, o=NYSDEC, ou, email=gregory.young@dec.ny.gov, c=US
Date: 2020.07.27 10:32:46 -04'00'

Gregory Young
Professional Geologist 1
Spill Prevention and Response Section

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

2017 Recommendation Summary

"Prior Year Deficiency Pending Corrective Action:

Investment Policy – During our review of the City's bank accounts, we noted that the amount held at one depository exceeded the maximum amount stated in the City's investment policy.

We recommend this situation be reviewed, and the necessary corrective action be implemented to ensure future compliance with the City's investment policy.

Current Year Deficiency in Internal Control:

Cyber Risk Management – The AICPA Center for Audit Quality recently issued a Cybersecurity risk management document discussing the continued Cyber threats that face both private and public entities. With that in mind, the City should continue to assess your cybersecurity risk oversight procedures to ensure a cyber risk assessment is completed over the financial system and any related subsidiary systems that the City uses to support their financial and compliance reporting. In addition, the cyber risk assessment should be documented to provide assurance that your cyber risk management procedures are in place for financial and compliance transactions of the City."

Actions Taken

Investment Policy: The investment policy is reviewed bi-annually by City Council with the last reviews taking place in 2017 and 2019. As noted in the 2018 Audit, the bank accounts were maintained in accordance with the investment policy. Maximum amounts were changed by City Council in 2019.

Cyber Risk Management: In 2017, a cyber risk assessment was conducted. In 2017, City Staff added cyber risk insurance to our insurance policy to protect the City in the event of an incident. The assessment was paid for by our insurance carrier. Recommendations have been implemented as resources are available.

2018 Recommendation Summary

"Prior Year Deficiency Pending Corrective Action:

Cyber Risk Management – The AICPA Center for Audit Quality recently issued a Cybersecurity risk management document discussing the continued Cyber threats that face both private and public entities. With that in mind, the City should continue to assess your cybersecurity risk oversight procedures to ensure a cyber risk assessment is completed over the financial system and any related subsidiary systems that the City uses to support their financial and compliance reporting. In addition, the cyber risk assessment should be documented to provide assurance that your cyber risk management procedures are in place for financial and compliance transactions of the City.

Other Item:

The following item is not considered to be a deficiency in internal control; however, we consider it an other item which we would like to communicate to you as follows:

Consolidating Services –

As the City continues to work with other municipalities to consolidate services, management should consider legacy cost (benefit at retirement) on those contracts.

Prior Year Recommendations:

The following prior year recommendation has been implemented to our satisfaction.

1. The City's bank accounts are now in accordance with the City's investment policy."

Actions Taken

Cyber Risk Management: In 2017, a cyber risk assessment was conducted. In 2017, City Staff added cyber risk insurance to our insurance policy to protect the City in the event of an incident. The assessment was paid for by our insurance carrier. Recommendations have been implemented as resources are available.

2019 Recommendation Summary

"Prior Year Deficiency Pending Corrective Action:

Cyber Risk Management – The AICPA Center for Audit Quality recently issued a Cybersecurity risk management document discussing the continued Cyber threats that face both private and public entities. With that in mind, the City should continue to assess your cybersecurity risk oversight procedures to ensure a cyber risk assessment is completed over the financial system and any related subsidiary systems that the City uses to support their financial and compliance reporting. In addition, the cyber risk assessment should be documented to provide assurance that your cyber risk management procedures are in place for financial and compliance transactions of the City.

Current Year Deficiency in Internal Control:

Cyber Security Training – During the course of our examination we noted that the City does not provide ongoing formal cyber security training to employees. We recommend that the City implement formal training to employees who utilize the City's computer network. Such training should include best practice updates, periodic phishing email tests, and enhance user awareness of common red flags in potentially harmful emails.

We have noted the City has begun to implement these training procedures in the next fiscal year. We recommend management ensure that these procedures are being monitored for completion and that employees continue to receive regular updates to this training.

Payroll Procedures –

During the course of our examination we noted that payroll registers are not reviewed by an independent individual prior to distribution each week. Additionally, we noted that there is not currently a backup individual who is cross trained on payroll processing.

We were informed that the City has a plan to address these items, however, implementation has been delayed due to the COVID-19 pandemic.

Other Item:

The following item is not considered to be a deficiency in internal control; however, we consider it an other item which we would like to communicate to you as follows:

Consolidating Services –

As the City continues to work with other municipalities to consolidate services, management should consider legacy cost (benefit at retirement) on those contracts.

Prior Year Recommendations:

The prior year recommendations have been noted above."

Actions Taken

Cyber Risk Management: In 2017, a cyber risk assessment was conducted. In 2017, City Staff added cyber risk insurance to our insurance policy to protect the City in the event of an incident. The assessment was paid for by our insurance carrier. Recommendations have been implemented as resources are available.

Cyber Security Training: Cyber security training (phishing and user awareness) is provided to employees on an annual basis. We have not conducted phishing email tests, but can point to numerous examples of failed attempts.

Payroll Procedures – Payroll is our largest expense and we pay on a weekly basis. We need to enhance our internal controls in the Treasurer's office. We have explored outside services in the past and it was not economical or practicable. We plan to hire a part-time position.