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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

October 15, 2021

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

**RE: Fourth Amendment and Equipment Modification to Lease Agreement
between SUNY Erie and T-Mobile Northeast LLC**

Dear Honorable Members:

Please find enclosed a resolution from SUNY Erie Community College seeking approval for SUNY Erie to amend the current South Campus T-Mobile Cell Tower Lease Agreement for the purpose of replacing and adding equipment.

Should your Honorable Body require further information, I encourage you to contact SUNY Erie Community College, Interim President, William Reuter. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/tcc
Enclosure

cc: William Reuter, Interim President, SUNY Erie Community College

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: William Reuter, Interim President of SUNY Erie Community College
Re: Fourth Amendment and Equipment Modification to Lease Agreement
between SUNY Erie and T-Mobile Northeast LLC
Date: October 15, 2021

SUMMARY

T-Mobile entered into a Lease Agreement on September 6th, 2006, with the County of Erie and SUNY Erie Community College to rent a portion of SUNY Erie South Campus for Cell Tower usage. The Agreement was for a five (5) year commitment with five (5) additional and successive five (5) year terms with a 15% increase from term to term.

The Lease Agreement was Amended September 10th, 2009, by way of 1st Amendment for the purposes of modifying equipment. The Lease Agreement was further Amended November 7th, 2013, by way of 2nd Amendment for the purpose of replacing existing equipment. The Lease Agreement was further Amended December 7th, 2016, by way of 3rd Amendment to add additional equipment with secure additional rental income of \$250.00 per month for that additional equipment. On March 3rd, 2021, T-Mobile amended the current agreement by way of modification letter for the purpose of equipment modification. The modification replaced equipment to enhance the technology, capacity, and optimal use of the site.

T-Mobile would like to amend the current agreement by way of 4th Amendment for the purpose of replacement of (3) panel antennas, the addition of (3) RRU/RRH's, for a total of (9) antennas and (6) RRU/RRH's along with associated cables and equipment, and the replacement of (1) fiber line. T-Mobile has agreed to pay additional rent of \$250.00 per month for the installation of said equipment. T-Mobile has also like to modify the agreement by way of Modification Letter for adding a new generator to existing lease area.

The current monthly rental rate \$3,158.18 per month and shall increase to \$3,408.18 per month effective upon completion of approved construction. The current annual rental rate is \$37,898.13 and shall increase to \$46,582.85 per year effective December 1st, 2021.

FISCAL IMPLICATIONS

Potential loss of rental income in the amount of \$500,765.63 over the next ten (10) year period.

REASONS FOR RECOMMENDATION

The College would like to continue to receive enhanced wireless communications and continue to collect rental fees.

CONSEQUENCES OF NEGATIVE ACTION

Potential loss of rental income in the amount of \$500,765.63 over the next ten (10) year period.

STEPS FOLLOWING APPROVAL

Upon Legislative approval, the County Executive shall approve the Fourth Amendment and Equipment Modification to Lease Agreement between SUNY Erie and T-Mobile Northeast LLC

A RESOLUTION SUBMITTED BY:
SUNY ERIE COMMUNITY COLLEGE

RE: Fourth Amendment and Equipment Modification to Lease Agreement between SUNY Erie and T-Mobile Northeast LLC

WHEREAS, T-Mobile entered into a Lease Agreement on September 6th, 2006, with the County of Erie and SUNY Erie Community College to rent a portion of SUNY Erie South Campus for Cell Tower usage. The Agreement was for a five (5) year commitment with five (5) additional and successive five (5) year terms with a 15% increase from term to term, and

WHEREAS, The Lease Agreement was Amended September 10th, 2009, by way of 1st Amendment for the purposes of modifying equipment. The Lease Agreement was further Amended November 7th, 2013, by way of 2nd Amendment for the purpose of replacing existing equipment. The Lease Agreement was further Amended December 7th, 2016, by way of 3rd Amendment to add additional equipment with secure additional rental income of \$250.00 per month for that additional equipment. On March 3rd, 2021, T-Mobile amended the current agreement by way of modification letter for the purpose of equipment modification. The modification replaced equipment to enhance the technology, capacity, and optimal use of the site, and

WHEREAS; T-Mobile would like to amend the current agreement by way of 4th Amendment for the purpose of replacement of (3) panel antennas, the addition of (3) RRU/RRH's, for a total of (9) antennas and (6) RRU/RRH's along with associated cables and equipment, and the replacement of (1) fiber line, and

WHEREAS; T-Mobile has agreed to pay additional rent of \$250.00 per month for the installation of said equipment, and

WHEREAS; T-Mobile would also like to modify the agreement by way of Modification Letter for adding a new generator to existing lease area, and

WHEREAS, the current monthly rental rate \$3,158.18 per month and shall increase to \$3,408.18 per month effective upon completion of approved construction. The current annual rental rate is \$37,898.13 and shall increase to \$46,582.85 per year effective December 1st, 2021, and

WHEREAS; SUNY Erie is requesting Erie County to enter into this agreement, and

WHEREAS; Denial of this request would negatively impact the ability for the College to receive enhanced wireless communications and continue to collect rental fees; and

WHEREAS, at its September 30, 2021 meeting, the SUNY Erie Community College Board of Trustees approved the Fourth Amendment and Equipment Modification to Lease Agreement between SUNY Erie and T-Mobile Northeast LLC and on September 30, 2021 also approved seeking Erie County Legislature approval of the same amendment; and

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approve the Fourth Amendment and Equipment Modification to Lease Agreement between SUNY Erie and T-Mobile Northeast LLC; and be it further

RESOLVED, that the Erie County Executive or his designee is hereby authorized to enter into the Fourth Amendment and Equipment Modification to Lease Agreement between SUNY Erie and T-Mobile Northeast LLC; and be it further

RESOLVED, that copies of the resolution be forwarded the Erie County Executive, President of SUNY Erie Community College and the Chairman of the SUNY Erie Community College Board of Trustees.