



ALLEGANY COUNTY  
TELECOMMUNICATIONS  
DEVELOPMENT CORP.

TECHNOLOGY REVIEW COMMITTEE MEETING

AGENDA

April 14, 2021

This meeting held via Zoom due to Covid-19

**Committee Attending:**    \_\_\_ Phil Curran            \_\_\_ Richard Zink            \_\_\_ Jerry Scott

**Others Present:**            \_\_\_ Kier Dirlam            \_\_\_ Dwight Fanton            \_\_\_ Chuck Jessup  
                                 \_\_\_ Craig Clark            \_\_\_ Brent Reynolds            \_\_\_ Debra Root  
                                 \_\_\_ Carissa Knapp – County Administrator  
                                 \_\_\_ Wayne Hawley            \_\_\_ Dave Pullen            \_\_\_ Chris Siracuse  
                                 \_\_\_ Matt Evans            \_\_\_ Keith Hooker

**1. CALL TO ORDER:**

a.        The meeting was called to order at \_\_\_\_\_ pm by the Chairman Curran.

**2. MINUTES:**

          On a motion by \_\_\_\_\_ and 2nd by \_\_\_\_\_ the minutes  
from March 10, 2021 are reviewed.    \_\_\_ Approved    \_\_\_ Not Approved

**3. GENERAL TECHNICAL ISSUES REVIEW FOR LAST MONTH**

**4. METERING USAGE/SYSTEM MONITORING**

**5. WXXI/WXXY/WNED TOWER**

**6. GRANT EQUIPMENT ORDERING STATUS**

**7. WORK ON THE TOWERS**

**Alfred Tower:**

**All Other Work:**

**8. NEXT MEETING:**

a.        The next meeting will tentatively be held on May 12, 2020 at 5 PM.

**9. ADJOURNMENT:**

a.        On a motion by \_\_\_\_\_ and seconded by \_\_\_\_\_ the  
meeting was adjourned at \_\_\_\_\_ PM.



ALLEGANY COUNTY  
TELECOMMUNICATIONS  
DEVELOPMENT CORP.

**TECHNOLOGY REVIEW COMMITTEE MEETING**

**AGENDA**

**March 10, 2021**

**This meeting held via Zoom due to Covid-19**

**Attending:** Richard Zink, Jerry Scott, Kier Dirlam, Chuck Jessup, Craig Clark, Carissa Knapp, Wayne Hawley, Dave Pullen, Nancy Jo Pullen, George Reusser, Chris Siracuse, Kat Kelly, Keith Hooker

**1. CALL TO ORDER:**

- a. The meeting was called to order at 5:02 pm by the Vice-Chairman Dirlam.

**2. MINUTES:**

- a. **On a motion by Chuck Jessup and 2nd by Jerry Scott the minutes from February 10, 2021 were reviewed and approved.**

**3. GENERAL TECHNICAL ISSUES**

- a. Wayne Hawley reported that it was a relatively quiet month. Needed to downgrade firmware on the 900 MHz units to improve stability. There have been some firmware mismanagement issues with these units that have caused issues.
- b. The Forticlient Access login is having issues today – CONXX has been notified to troubleshoot the issue.
- c. Keith Hooker stated when asked that the County fiber has a separate Fortigate unit from the one we are using for our line. There may be some 911 internet usage of our line but he wasn't clear that they are utilizing that much currently.
- d. Discussed the purchase of new units to be installed between the Fortigate and the system to allow for management and billing. Would need at least two units and they cost approximately \$900/\$1000 each. Wayne is working to determine the best configuration prior to asking for us to authorize their purchase.
- e. Grove site has lost access point and he had reset it to another setting. There may be a blown amplifier at this site. Needs to schedule a visit with 911 staff.
- f. Chris Siracuse noted that they have had a busy month and lost connections at a number of customer's houses. Upon review it ended up being issues with the routers at the customers rather than our network.
- g. Chris Siracuse noted that they have had an issue with 3.65 config file being lost and resetting.

**4. METERING USAGE**

- a. Wayne Hawley produced the monthly graphs and they were distributed. The system is steady from the previous month's usage and isn't having any spikes.

**5. WXXI/WXXY/WNED TOWER**

- a. We received notice from WXXI today that they want the exact information on the equipment that will be on the towers included in the contract rather than as an addendum. We had provided the basic equipment but now they want the full inventory as well as other specific information. Wayne Hawley is gathering this information together to provide to Kier Dirlam who will edit the contract as requested with this information.

**6. RADIO EQUIPMENT ORDERING STATUS**

- a. Richard Zink discussed that the RFP was released and that the responses are expected on April 9th. He noted that the information will be sent to the 911 office for checking with engineering before actually proceeding with ordering the equipment.
- b. Noted that it appears that we can cover the WXXY tower equipment in this grant which will decrease the burden on ACTDC.

**7. WORK ON THE TOWERS**

- a. Wayne Hawley stated he had done visual survey from outside the fences at three of our sites so far to plan for climbing needs prior to upcoming work. The snow has been deep and no site visits inside the fence have been scheduled yet with 911's staff. Hoping to look at some of the sites in the coming month, especially the older ones.
- b. County Administrator Carissa Knapp stated that the Alfred Tower went on-line late 2020/early 2021. We are not sure that the broadband equipment has been setup there as of yet. Wayne Hawley is going to put that on the list of sites to visit with 911 staff to determine what needs to be done.

**8. NEXT MEETING:**

- a. The next meeting will tentatively be held on April 14, 2020 at 5 PM via Zoom.

**9. ADJOURNMENT:**

- a. **On a motion by Chuck Jessup and seconded by Craig Clark the meeting was adjourned at 5:36 PM.**

**Notes as taken by Kier Dirlam**



**BOARD MEETING  
AGENDA  
April 14, 2021**

**Attending:**      ☐ Craig Clark      ☐ Phil Curran      ☐ Kier Dirlam  
                         ☐ Dwight Fanton      ☐ Chuck Jessup      ☐ Brent Reynolds  
                         ☐ Debra Root      ☐ Jerry Scott  
**Others Present:**      ☐ Carissa Knapp – County Administrator      ☐ Richard Zink – STW  
                         ☐ Wayne Hawley      ☐ Dave Pullen      ☐ Chris Siracuse

- 
1.    **CALL TO ORDER:** [1 Minute]
    - a.    The meeting was called to order at \_\_\_\_\_ pm by the Chairman Curran.
  
  2.    **MINUTES:** [1 Minute]
    - a.    **On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ the minutes from the March 10, 2021 meeting were reviewed.**  
         ☐ Approved ☐ Not Approved
  
  3.    **CORRESPONDENCE:** [1 Minutes]  
         **Secretary's Report - None**
  
  4.    **FINANCIAL:** [10 Minutes]
    - a.    **Treasurer's Report** – Attached to Agenda
      - i.    **Accounting/Book keeping Report** – see attached spreadsheets.
      - ii.   **Pay the Bills – On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to pay the bills.**  
         ☐ Approved ☐ Not Approved
      - iii.   **PARIS**
      - iv.   **Payroll & BBS shutdown**
    - b.    **Grants: Update** – RFP Review
    - c.    Billing Last Mile Providers
    - d.    Other financial related issues?
  
  5.    **INFRASTRUCTURE:** [10 Minutes]
    - a.    Technical Review Committee Report –
    - b.    Current Construction Project
    - c.    Towers, Links, etc.
    - d.    Servers
    - e.    Other infrastructure related issues?

6. **LEGAL ISSUES:** [15 Minutes]

a. **Contracts**

- i. **WXXI** – contract update.
- ii. **Contract with the Southern Tier Wireless. On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the agreement with Southern Tier Wireless as a Last Mile Provider with ACTDC.** \_\_ Approved \_\_ Not Approved
- iii. **Draft Contract with Southern Tier Wireless for Maintenance Services** – contract update.

b. **Policies** – Establishment – Review of Draft Policies – Discussion

- i. **DEPOSITORY AGREEMENT PROGRAM: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Depository Agreement Program.** \_\_ Approved \_\_ Not Approved
- ii. **EQUIPMENT AND PROPERTY CAPITALIZATION POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Equipment and Property Capitalization Policy.** \_\_ Approved \_\_ Not Approved
- iii. **EXTENSION OF CREDIT TO BOARD MEMBERS AND STAFF POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Extension of Credit to Board Members and Staff Policy.** \_\_ Approved \_\_ Not Approved
- iv. **INTERNAL CONTROL AND FINANCE POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Internal Control and Finance Policy.** \_\_ Approved \_\_ Not Approved
- v. **PROCUREMENT POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Procurement Policy.**
- vi. **SEXUAL HARASSMENT POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Sexual Harassment Policy.** \_\_ Approved \_\_ Not Approved
- vii. **WHISTLEBLOWERS AND PROTECTION FROM RETALIATION POLICY: On a motion by \_\_\_\_\_ and 2<sup>nd</sup> by \_\_\_\_\_ to approve the Whistleblowers and Protection from Retaliation Policy.** \_\_ Approved \_\_ Not Approved

c. Other legal related issues?

7. **GOOD OF THE ORDER** [5 Minutes]

New Board member?

8. **NEXT MEETING:** [1 Minute]

- a. **May 12, 2021 6PM –via Zoom due to Covid-19 restrictions**

9. **ADJOURNMENT:** [1 Minute]

- a. **On a motion by \_\_\_\_\_ and seconded by \_\_\_\_\_ the meeting was adjourned at \_\_\_\_\_ PM.**



ALLEGANY COUNTY  
TELECOMMUNICATIONS  
DEVELOPMENT CORP.

**BOARD MEETING  
AGENDA  
March 10, 2021**

**Attending:** Craig Clark, Kier Dirlam, Dwight Fanton, Chuck Jessup, Debra Root, Jerry Scott  
**Excused:** Phil Curran, Brent Reynolds  
**Others Present:** Carissa Knapp – County Administrator  
Richard Zink – STW  
Wayne Hawley, Dave Pullen, Nancy Jo Pullen, George Reusser

**1. CALL TO ORDER:**

a. The meeting was called to order at 6:01 pm by the Vice-Chairman Dirlam.

**2. MINUTES:**

a. **On a motion by Dwight Fanton and 2<sup>nd</sup> by Debra Root the minutes from the January 13, 2021 meeting were reviewed and approved.**

**3. CORRESPONDENCE:**

**Secretary's Report** – The board discussed the need to choose a new Secretary. Mr. Jessup agreed to hold the position for this year.

a. **On a motion by Debra Root and 2<sup>nd</sup> by Jerry Scott the board selected and approved Chuck Jessup to be the Secretary for ACTDC.**

**4. FINANCIAL:**

a. **Treasurer's Report**

i. **Accounting/Book keeping Report** – Treasurer Richard Zink reviewed the spreadsheets that he had provided prior to the meeting. In general we are about even and doing ok.

ii. **Pay the Bills – On a motion by Debra Root and 2<sup>nd</sup> by Dwight Fanton to pay the bills in the amount of \$2,895.59 was approved.**

iii. **PARIS** – Richard indicated that we are in good shape to meet the March timeline for compliance.

iv. **Complete Payroll & BBS** - shutdown has been slow but should be complete now. Because Ryan Cool received a check in January we will have to file the Quarterly 941 form and the W-2 next January.

b. **Grants:** The RFP has been released for the new Antennas. They are due back to STW by April 9<sup>th</sup>. The ACTDC Board will do an initial review at the April 14<sup>th</sup> meeting. Be prepared to spend time looking this over at that meeting. This grant should cover the new transmitters, the last mile receivers for replacement of the 3.65 GHz and 900 MHz units and the WXXI equipment.

c. **Annual Audit** – Richard Zink indicated that the latest Audit was sent out to the group today. It was reviewed briefly.

- d. **Billing Last Mile Providers** – Wayne Hawley sent out the chart showing usage. It is similar to the last month. Richard sent out the February and March invoices to the last mile providers. Nancy Jo Pullen asked if we had received the check she had sent out and Kier Dirlam indicated that yes it had been received and deposited that day. Richard Zink indicated that Win-Win had requested some minor middle choices be considered to the rate schedule. Richard Zink presented an adjusted Rate Schedule to accommodate this request. **On a motion by Jerry Scott and 2<sup>nd</sup> by Chuck Jessup the board approved the adjusted rate schedule.**

5. **INFRASTRUCTURE:**

- a. **Technical Review Committee Report** – Kier Dirlam gave a briefing for the Board on the meeting that was held just prior to this meeting. Those minutes are available for review.
- b. **Current Construction Project** – No construction projects are currently underway.

6. **LEGAL ISSUES:**

a. **Contracts**

- i. **WXXI** – WXXI has requested that we modify the proposed contract with a complete list of equipment and locations of equipment be included in the body of the contract. They would also like to receive an internet feed from ACTDC as payment for the use of this tower. **After a short discussion the board agreed to provide a 10 mg service on a motion by Craig Clark and 2<sup>nd</sup> by Dwight Fanton it was approved. If additional level of service is needed we will revisit the issue as needed.**
- ii. **Revised Contract with the Last Mile Providers** – Kier Dirlam reminded the board that in the coming month we need to revise the master agreement with an updated rate and billing language.
- iii. **Contract with Southern Tier Wireless for Maintenance** – Kier Dirlam reminded the board that in the coming month we need to finalize the contract for maintenance services with Southern Tier Wireless.

b. **Policies** – Establishment – Review of Draft Policies.

- i. Kier Dirlam had sent out to the board the following draft policies required by PARIS and in accordance with good operating principles that need to be reviewed and approved. Richard Zink indicated that there are additional policies that we will likely need and he will get that list out to the Board so we can catch up on this outstanding item.
  - 1. DEPOSITORY AGREEMENT PROGRAM
  - 2. EQUIPMENT AND PROPERTY CAPITALIZATION POLICY
  - 3. EXTENSION OF CREDIT TO BOARD MEMBERS AND STAFF POLICY
  - 4. INTERNAL CONTROL AND FINANCE POLICY
  - 5. PROCUREMENT POLICY
  - 6. SEXUAL HARASSMENT POLICY

7. **WHISTLEBLOWERS AND PROTECTION FROM RETALIATION  
POLICY**

- c. **Other legal related issues:** Reminded the County Administrator that the County needs to finalize the arrangement for the antennas that are going to be installed to provide match.

7. **GOOD OF THE ORDER**

- a. **Board Member Seat:** Kier Dirlam reminded the board that we now have an opening and if they are aware of someone who would be a good match to join the board to bring their name up for consideration to be a new Board member?
- b. **Grant Administration:** Discussed the question by Dave Pullen if the current grant has any monies for administration for ACTDC. The grant has administration monies for Southern Tier West and ACTDC is the beneficiary of the grant.
- c. **Future Grants/Projects:** Briefly discussed the ideas for some other types of broadband programs to bring service to low income families possibly through a foundation program Kier Dirlam and Richard Zink have been participating in.

8. **NEXT MEETING:**

- a. **April 14, 2021 6PM –via Zoom due to Covid-19 restrictions**

9. **ADJOURNMENT:**

- a. **On a motion by Dwight Fanton and seconded by Chuck Jessup the meeting was adjourned at 6:54 PM.**

**Notes as taken by Kier Dirlam**



	2021					
	January	February	March	April	Total	
Opening	\$ -					
Provider WinWin	\$ 9,160.80	\$ 3,350.00	\$ 3,300.00		\$ 15,810.80	
Provider Telstar	\$ 1,642.00				\$ 1,642.00	
Provider STW					\$ -	
County					\$ -	
Monthly Total	\$ 10,802.80	\$ 3,350.00	\$ 3,300.00	\$ -	\$ 17,452.80	
Expenses						
BBS Accounting	\$ 200.00		\$ 400.00		\$ 600.00	
First Light			\$ 4,128.00		\$ 4,128.00	
National Grid		\$ 52.14	\$ 26.09		\$ 78.23	
Complete Payroll			\$ 292.31		\$ 292.31	
Reimbursement	\$ 29.09				\$ 29.09	
Ryan Cool	\$ 912.29				\$ 912.29	
Payroll Taxes	\$ 156.60				\$ 156.60	
Insurance					\$ -	
Auditor			\$ 14,000.00		\$ 14,000.00	
Legal					\$ -	
Contractor			\$ 2,100.00		\$ 2,100.00	
Monthly Total	\$ 1,297.98	\$ 52.14	\$ 20,946.40		\$ 22,296.52	
Profit/Loss	\$ 9,504.82	\$ 3,297.86	\$ (17,646.40)	\$ -	\$ (4,843.72)	
Checking Account Balance	\$ 27,195.89	\$ 30,493.75	\$ 12,447.25			
Accounts Recievable	\$ 7,595.00	\$ 4,245.00	\$ 2,632.50			
Accounts Payable	\$ -	\$ 17,944.00	\$ -	\$ 4,957.41		
Net Position	\$ 34,790.89	\$ 16,794.75	\$ 15,079.75			

DEPARTMENT APPROVAL	APPROVAL FOR PAYMENT
<p>The above services or materials were rendered or furnished to the Corporation on the dates stated and the charges are correct.</p>	<p>This claim is approved and ordered paid from the appropriations indicated above.</p>
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>#REF!</p> <hr/> <p>DATE</p> </div> <div style="width: 45%;"> <p>#REF!</p> <hr/> </div> </div>	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>#REF!</p> <hr/> <p>DATE</p> </div> <div style="width: 45%;"> <hr/><hr/><hr/><hr/><hr/><hr/><hr/><hr/> </div> </div>
	<p>BOARD MEMBER</p>

Allegany County Telecommunications Development Corp  
7 Court Street  
Belmont, NY 14813

CLAIMANT'S NAME	FirstLight Fiber
AND ADDRESS	PO Box 1301
	Williston, VT 05495-1301

CLAIMANT - DO NOT WRITE IN THIS AREA		VOUCHER NUMBER <u>4</u>	
DATE VOUCHER RECEIVED		<u>4/1/2021</u>	
FUND APPROPRIATION		AMOUNT	
6170 - Broadband Bandwidth		\$1,032.00	
TOTAL		\$1,032.00	
ENTERED ON ABSTRACT NO		#REF!	

TERMS \_\_\_\_\_ PO # \_\_\_\_\_

DATE	VENDOR'S INVOICE NO	QUANTITY	DESCRIPTION OF MATERIALS OR SERVICES	UNIT PRICE	AMOUNT
4/1/2021	8894425		Recurring Charges (500Mbps)		\$1,032.00
				TOTAL	\$1,032.00

I, Richard Zink, certify that the above account in the amount of \$1,032.00

4/1/2021		Treasurer
_____ DATE	_____ SIGNATURE	_____ TITLE

4/14/21	
DATE	#REF!

4/15/21

DATE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

BOARD MEMBER

Allegany County Telecommunications Development Corp  
7 Court Street  
Belmont, NY 14813

CLAIMANT'S NAME	National Grid
AND ADDRESS	PO BOX 11742 Newark, NJ 07101-4742

CLAIMANT - DO NOT WRITE IN THIS AREA		VOUCHER NUMBER	5
DATE VOUCHER RECEIVED		4/1/2021	
FUND APPROPRIATION		AMOUNT	
6910 - Electric		\$25.41	
TOTAL		\$25.41	
ENTERED ON ABSTRACT NO		#REF!	

TERMS \_\_\_\_\_ PO # \_\_\_\_\_

DATE	VENDOR'S INVOICE NO	QUANTITY	DESCRIPTION OF MATERIALS OR SERVICES	UNIT PRICE	AMOUNT
4/1/2021	93172-05001		Electric Service - Wellsville Micro-cell		\$25.41
				TOTAL	\$25.41

I, Richard Zink, certify that the above account in the amount of \$25.41

4/1/2021		Treasurer
_____ DATE	_____ SIGNATURE	_____ TITLE

#REF!

BOARD MEMBER

BOARD MEMBER

**RADIO TOWER LEASE  
SPACE FOR EQUIPMENT ON EXISTING WXXI TOWER**

This LEASE AGREEMENT (the “Agreement”) made effective on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), by and between ALLEGANY COUNTY TELECOMMUNICATIONS DEVELOPMENT CORPORATION, with offices located at Crossroads Center, 6087 State Route 19 – Suite 400, Belmont, NY (“ACTDC” and/or “Lessee”); and WXXI PUBLIC BROADCASTING COUNCIL and WXXI, INC. (“WXXI” and/or “Lessor”), with offices located at 280 State Street, Rochester, New York 14614, individually referred to herein without identification as a “Party,” and/or collectively as the “Parties.”

The Parties to this Agreement now do hereby mutually agree for ACTDC to lease space from WXXI, and for WXXI to rent space to ACTDC on a certain radio tower, for the purpose of locating, maintaining, and operating radio transmission and receiver equipment (the “Fixed Wireless Radio Facilities”) as a “Micro-Cell Radio Facility” located on the existing radio tower leased exclusively by WXXI by way of a Master Lease from the Robert and Mary Walk Family Protection Trust, Elizabeth Enzinna, as Trustee, dated August 18, 2018 (the “Master Lease”), operated by WXXI, and situated on County Road 49, Caneadea, New York 14717, as follows:

WHEREAS, WXXI, maintains an electronic radio tower facility on County Road 49, in the Town of Caneadea, County of Allegany, and State of New York, for the purpose of broadcasting radio signals to the surrounding area using the FCC-approved call letters of “WXXY,” and

WHEREAS, WXXI has agreed to permit and lease space for ACTDC to situate and locate Fixed Wireless Radio Facilities for the purpose of providing rural Internet service to residents and businesses, provided the Internet facilities are owned and managed by either a governmental agency or a “Not-For-Profit” entity, and

WHEREAS, ACTDC is incorporated in New York as a Not-For-Profit Corporation, organized under the provisions of the New York State Not-For-Profit Corporation Law, and operates as a wholly owned agency or subsidiary of the County of Allegany, and

WHEREAS, the Parties to this Agreement have determined that it is appropriate to memorialize and formalize the terms of their mutual agreement, they now mutually agree, express, and covenant as follows:

1. PREMISES. The property leased by WXXI through the Master Lease is an acre of land, more or less, of real property situate in the Town of Caneadea, County of Allegany and State of New York, abutting on County Road No. 49, on which has been constructed a 175-foot high broadcast tower and guy wires of such tower (the “WXXI Tower”), and a shelter located adjacent to the WXXI Tower, together with a 20-foot wide right of way from County Road 49 to said tower site for use of vehicles and electric service line. The WXXI tower includes antennas and other attachments, along with necessary guy wires, braces, fences, antennas and other fixtures and appurtenances used or adapted for the transmission and reception of radio and television signals upon and over said land and property, together with any buildings necessary to house television and radio transmitting and receiving equipment provided that such building does not exceed 100 square feet of area.

2. **TERM.** The initial term of this Agreement shall be for five years (the “Initial Term”), commencing on the Effective Date, above. Except as hereinafter provided, this Agreement may be renewed for two additional five-year periods (each being considered a “Renewal Term”). All Renewal Terms will comply with the same terms and conditions in effect during the Initial Term, with the exception of the fee for use of the space on the tower. The Agreement shall be automatically renewed for each Renewal Term unless, not less than six (6) months prior to the expiration of the then current term, Lessee notifies lessor, in writing, of its intention not to renew the Agreement.
3. **LEASE PAYMENTS.** There are no Lease Payments for this agreement. The Lessee will provide a 10 Mbps Service which will include one static external IP address to the Lessor at this site for Internet in exchange for the use of the tower for the duration of the agreement.
4. **USE.** Lessee, together with any sub-lessees, sub-licensees, and/or designated successors or assigns which have been authorized by Lessee to use the space leased or the equipment affixed to the WXXI Tower, may use and occupy the Premises on a non-exclusive basis with the wireless communications equipment specified and incorporated by reference herein on the attached letter (the “Equipment”), and as further set forth herein. Lessee has the right to install, operate, repair, maintain, upgrade, and/or remove the Equipment and has the right of access to the WXXI Tower and Premises for those purposes and all ordinarily related purposes. The Premises may not be used for any other purpose without the written prior consent of the Lessor, which consent shall not be unreasonably Withheld. Any other use of the Premises and/or WXXI Tower by the Lessee shall constitute a material breach of this Agreement and, in the event such breach goes uncured as provided herein, may result in the termination of this Agreement at Lessor’s discretion. By way of this Agreement, Lessor represents and warrants that it possesses the full right to lease the Premises in the manner contemplated herein and has obtained whatever permissions and/or approvals are necessary to achieve the purposes of the Agreement, including but not limited to those included within the Master Lease. Lessor reserves the right to co-locate equipment of other users in addition to the uses contemplated herein, provide that any such co-location signal transmission does not adversely impact Lessee’s use pursuant to the Agreement and Lessor agrees not to enter into any future lease(s) with any third party(ies) whose operations would interfere with Lessee’s established frequencies.
5. **STRUCTURES AND EQUIPMENT.** No other structures or equipment are authorized except those specifically depicted in Attachment A. Lessee agrees that it shall comply with all applicable provisions of any government rule, regulation, statute, or otherwise in connection with the activities authorized by this Agreement.
6. **INSURANCE.** Lessee, and any sub-lessees, sub-licensees, successors, and/or assigns, if any, shall obtain and maintain at all times during the term of this Agreement, insurance in the kinds and amounts detailed below. Lessee shall, at its sole cost and expense, obtain insurance on its inventory, equipment, and all other personal property of Lessee located on the Premises against any loss from fire, theft, or other casualty. If Lessor reasonably changes its insurance requirements during the term of this Agreement, Lessee shall be responsible for updating or upgrading its policy to comply with Lessor’s requirements prior to the beginning of any five-year Renewal Term. Lessor shall notify lessee in writing of any changes to its insurance requirements not less than sixty (60) days prior to

the end of any five-year (5) Term. General liability insurance shall be required, covering all operations, fire damage construction, maintenance, repairs and other work on the premises, with blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$2,000,000 general aggregate; and \$50,000 for any one fire. The aggregate limit shall be maintained in the event of claims made or paid through additional insurance obtained by Lessee. Lessor shall be named as an additional insured on all policies required herein. A certificate evidencing such insurance shall be provided to the Lessor, or its agent(s), annually.

7. ASSIGNMENT. This Agreement may not be assigned by Lessee without the written permission of Lessor, which permission shall not be withheld unreasonably.
8. TERMINATION. This Agreement may be terminated at the end of each Renewal Term as provided in paragraph 2 above or as provided in this paragraph. If, at any time during the term of this Lease, it becomes commercially, economically, technologically or legally advisable in Lessee's judgment for Lessee to discontinue using the premises, Lessee may terminate this Agreement by providing thirty (30) days written notice to lessor. In such event, lessee shall compensate Lessor by paying Lessor an amount equivalent to one (1) annual payment as liquidated damages. Such payment shall be tendered with the written notice of termination. Should lessor determine that Lessee has breached or failed to perform any provision of this Agreement, Lessor shall provide Lessee with notice of such breach and intention to cancel the Agreement, and shall provide lessee with thirty days (30) from the date of such notice to correct or remedy any breach. If the breach remains uncorrected or remedied, Lessor may terminate and cancel this Agreement and shall then provide Lessee with notice to remove any and all equipment, personal property or fixtures from the premises within thirty (30) days.
9. HOLD HARMLESS. Lessee shall save, indemnify, and hold harmless Lessor for any liability for damage or loss to person(s) or property resulting from Lessee's occupancy and/or use of the premises, except in cases arising from the gross negligence and/or intentional acts of Lessor, its employees, and/or agents.
10. SEVERANCE. Any provision of this Agreement rendered null and void by the operation of this provision shall not invalidate the remainder of the Agreement, to the fullest extent possible that the Agreement is capable of execution. The Parties hereby agree that in the event that any provision(s) herein shall be deemed unlawful and/or unenforceable by a court of competent jurisdiction, the remainder shall survive such determination to the fullest extent of the law.
11. ENTIRE AGREEMENT. This Agreement, supersedes all other oral or written discussions and/or agreements, understandings, and the like, by and between the Parties, and no subsequent amendment to this Agreement shall be valid and enforceable unless and except to the extent it is made in writing and executed by both Parties as set forth herein.
12. AMENDMENT. This Agreement may not be modified except by a subsequent written agreement signed by the authorized representatives of all of the Parties hereto.



13. NOTICES. All notices provided hereunder shall be provided via United States Postal Service to the addresses of the Parties as set forth herein or as updated to the respective counter-party from time to time.
14. GOVERNING LAW. The laws of the United States and the State of New York, as well as any rules, regulations, statutes, and/or orders issued pursuant thereto, as well as any regulations, resolutions, and ordinances of the County of Allegany, and any local laws of the Town of Caneadea shall be applied in the interpretation, execution, and enforcement of this Agreement.
15. FORUM. The Parties hereby agree that in the event of any dispute(s) related to this Agreement shall be resolved under New York law exclusively by the courts of Allegany County, New York.
16. DUE AUTHORITY. The Parties herein represent that the signatory below is vested with the full authority to bind and obligate the respective Party(ies) to this Agreement.

WITNESS our signatures below as of the Effective Date set forth above.

Allegany County Telecomm. Dev. Corp.      WXXI Public Broadcasting Council, and WXXI, Inc.

BY: \_\_\_\_\_  
Phillip B. Curran, ACDTC Chairman

BY: \_\_\_\_\_  
Susan M. Rogers, General Manager  
and Executive Vice-President

### **Attachment A**

The Lessee's Baicell LTE (KPP-3SX4-65) antenna shall be mounted on the same tower leg and location as the "Old STL Dish" as indicated on the attached photo (WXXY Tower Exhibit A) and will be mounted as close to the tower as possible. The removal and disposal of the unused STL dish will be the responsibility of the Lessee.

The Lessee shall install the Radwin LINK antenna below the Lessor's "EAS FM Antenna" as indicated on the attached photo (WXXY Tower Exhibit A).

Radwin LINK Antenna information follows the tower map.

A marking fastened securely to its bracket on the tower must identify all antenna(s) on the tower and all transmission lines are to be tagged at the base of the tower.

The Lessee's 24"x24"x20" NEMA rated steel equipment box shall be mounted securely to the northern exterior face of the existing transmitter building.

The Lessee will use a licensed electrician to install a circuit breaker in the existing electrical panel of sufficient size for their equipment, and not to exceed 20 amps. The electrician will also install conduit to run from the electrical box to their exterior equipment box.

All exterior transmitter building penetrations made by the Lessee or their contractors shall be adequately sealed against weather and pest ingress.

As compensation for the Lessee's use of the site, the lessee will provide the Lessor a minimum of 10 Mbps internet access which will include one static external IP address.

The Lessee will maintain its equipment in compliance with all FCC guidelines.

The Lessee will not cause radio frequency and/or electrical interference to the existing equipment of the Lessor. Upon written notice from Lessor to Lessee of such interference, Lessee will take all reasonable steps to correct such interference in a timely manner. If such interference cannot be reasonably corrected within five (5) days from receipt of Lessors' notice, Lessee will cease using its communication equipment, except for testing, until such time as Lessee corrects the interference. In the event Lessee cannot correct the interference, Lessee will have the option to terminate this lease without further liability hereunder, upon thirty (30) days written notice to Lessor.

Upon termination of this lease, Lessee shall remove all equipment that Lessee has installed as identified in this lease.

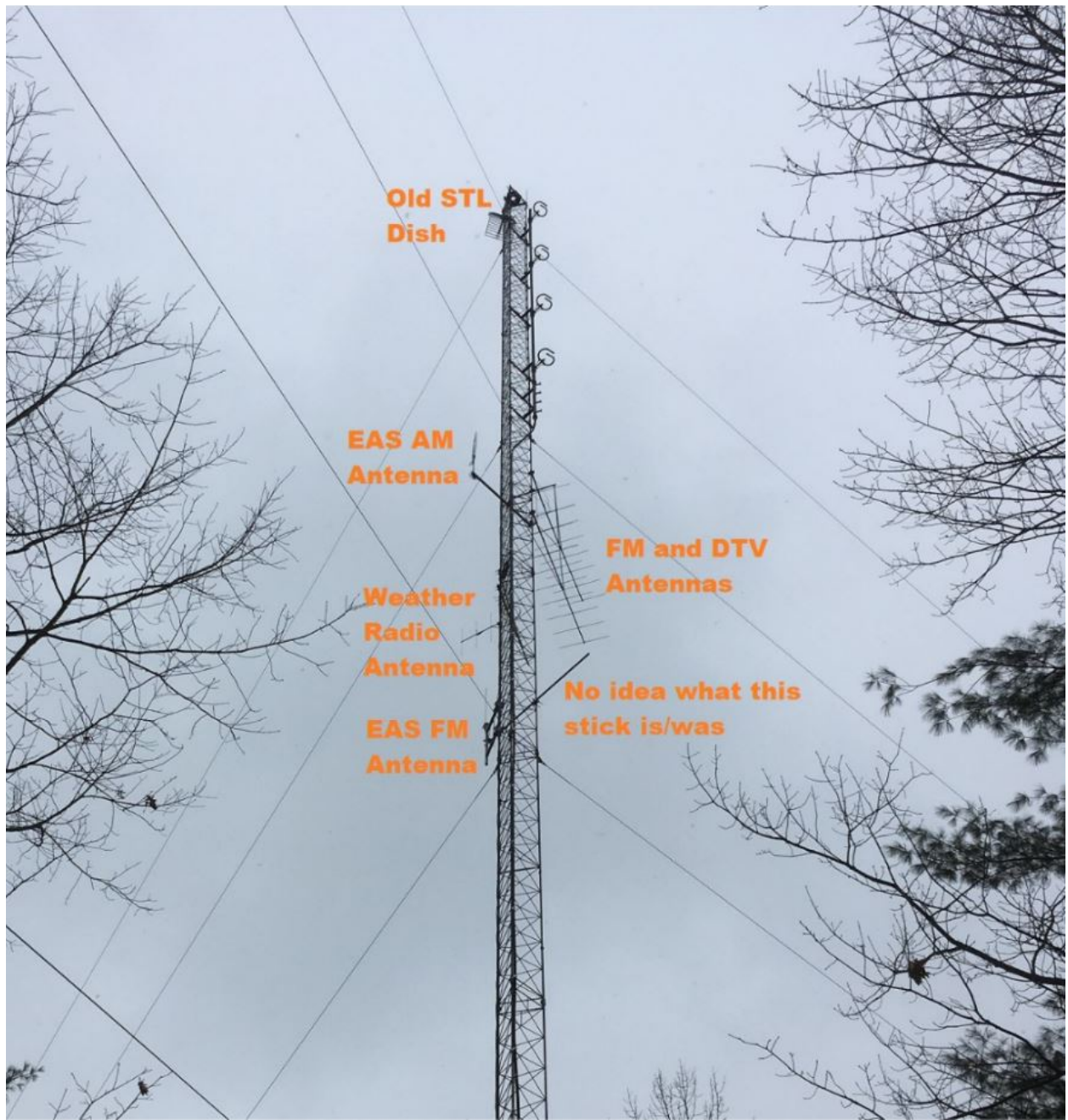


Exhibit A



**Allegany County Telecommunications Development Corporation**

6087 NYS Route 19 N

Suite 400

Belmont, NY 14813

This Master Services Agreement ("Agreement"), dated as of DATE:

2021 is entered into by and between Allegany County Telecommunications Development Corporation ("ACTDC") with its principal place of business at 6087 NYS Route 19 N - Suite 400, Belmont, NY 14813 and Southern Tier Wireless ("Customer"), pursuant to which Customer agrees to purchase and ACTDC agrees to provide the telecommunications service(s) ("Service(s)") set forth and outlined in the applicable Service Order(s).

**1. Definitions:**

"Adjusted Days" means Business Days with respect to actions that were taken (or should have been taken) or notices given by Customer, and means calendar days with respect to actions taken (or should have been taken) or notices given by ACTDC

"Affiliate" means, with respect to any Person, any other Person, who directly or indirectly controls, is controlled by, or is under common control with, that Person. "Agreement" means, collectively, this Master Services Agreement plus all applicable Appendices, Service Orders, and any other documents that are expressly incorporated herein.

"Business Day" means any Monday to Friday excluding U.S. public, bank or statutory holidays.

"CPE" means customer premises equipment.

"Credit Application" means a request to check Customer's and its owner's credit status pursuant to procedures reasonably established by ACTDC to help determine whether Customer can fulfill its financial obligations under the Agreement.

"Customer" means the party identified in the first paragraph of this document, and the party that signs this Master Customer Service Agreement. Customer does not refer to any users that the Customer identified in this document provides service to.

"Due Date" shall have the meaning given such term in Section 5.

"Insolvency Event" means in relation to a Party:

- a) a Party makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief; or
- b) an involuntary petition in bankruptcy or other insolvency protection is filed against either Party and not dismissed within one hundred twenty (120) days thereafter.

"FOC Date" means the firm order commitment date, described in Appendix E, provided by ACTDC with respect to any Service Order submitted by Customer and accepted by ACTDC.

"Force Majeure Event" means any cause that is beyond the reasonable control of the affected Party, including, but not limited to, acts of God or nature; insurrection or civil disorder; vandalism; war; fires, explosion, flood or other catastrophic events; labor shortage or dispute (other than of a Party's own workforce); power outages or interruptions of other utility services; magnetic interference; solar radiation and laws or restrictions imposed by any governmental, judicial, or military authority that materially impede ACTDC's ability to provide service.

## ACTDC Master Services Agreement

"Interest Rate" shall have the meaning given such term in Section 5.

"ACTDC Network" means the wireless communications network, including Wireless Electronics and other equipment and facilities, that ACTDC holds rights in, has constructed, or is constructing.

"Party" means each of ACTDC and Customer and "Parties" means ACTDC and Customer collectively.

"Person" means any individual, corporation, partnership, limited liability Company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Regulatory Requirement" means any rule, regulation, policy or mandate issued by a federal, state or local governmental agency regulating the Services.

"Security Deposit" means a cash deposit equal to up to two (2) months of Customer's monthly recurring charges.

"Service Commencement Date" shall have the meaning given such term in Section 6.

"Service Fees" shall have the meaning given such term in Section 4.

"Service Order" means a written request by Customer for a Service on an ACTDC approved service order form, the form of which is attached as Appendix A. Once accepted by ACTDC, each Service Order hereby becomes a part of this Agreement.

"Service Term" shall have the meaning given such term in Section 3.

"Term" shall have the meaning given such term in Section 3.

"Taxes" means any sales, use or excise tax, value added tax, goods and services tax, gross receipts tax, regulatory tax or similar tax imposed by any governmental or quasi-governmental authority, including charges required or permitted by governmental or quasi-governmental authorities or applicable law in support of any statutory or regulatory programs, including, without limitation, the Universal Service Fund charge contemplated by the Communications Act of 1934, as amended, and similar obligations under the laws of any federal, state, local or other political subdivision or quasi-governmental authority, but shall not include any property taxes or taxes by reference to ACTDC's net income.

**2. Services:** ACTDC will provide to Customer the Services in accordance with the Agreement as ordered by Customer on an accepted Service Order. Services will be established in accordance with the provisioning and installation process set forth in Appendix E. In the event that the Service includes Internet access service, Customer will execute and abide by the Authorized Use Policy set forth in Appendix F.

**3. Term:** This Agreement shall commence upon the execution of this Master Service Agreement and first Service Order and continue until the expiration of the last effective Service Term, unless earlier terminated

- a) by ACTDC in its sole discretion by notice to Customer, or
- b) in accordance with the Agreement (the "Term"). The term, with respect to each Service, shall begin on the Service Commencement Date and shall extend for the period of time set forth in the applicable Service Order (the "Service Term").

Unless either Party receives from the other Party written notice of its intention to terminate the Service at least thirty (30) Adjusted Days prior to the expiration of the Service Term, at the expiration of such

## ACTDC Master Services Agreement

Service Term, the Service Term will automatically renew and be extended for an additional one (1) year. Any such renewal shall be on the terms of the Service Order currently in effect; provided, however, ACTDC shall have the right during any such renewal period to increase the price of the Service upon providing Customer with fifteen (15) calendar days prior written notice of any such price increase. Any price increase shall be subject to party good faith negotiation, not to be unreasonably withheld, delayed or conditioned. During any renewal term of a Service Order, either Party shall have the right to terminate the Service by providing the other Party at least thirty (30) Adjusted Days prior written notice of termination.

Except as otherwise provided herein, Customer's right to use a Service shall immediately cease and ACTDC shall have no other duties, obligations or consideration to Customer upon final termination of the Service.

Neither Party's rights, obligations nor liabilities that have arisen before the date of termination or expiration shall be affected by the expiration or termination of the Agreement.

**4. Payment:** Customer agrees to pay all monthly recurring charges ("MRC"), non-recurring charges ("NRC"), other similar charges set forth in the Service Order for the Service, and any third party charges ACTDC incurs on Customer's behalf in order to provide Customer with the Services (collectively, the "Service Fees").

Customer also shall be solely responsible for all Taxes, except as provided for below. In the event and to the extent Customer believes that it is exempt from any Tax under applicable law, Customer shall provide to ACTDC a tax exemption certificate(s), in a form acceptable to ACTDC and to the relevant jurisdiction, that demonstrates that it maintains tax-exempt status from all or part of the Taxes. If Customer does not provide such certificate, ACTDC may include on any invoice, and the Customer shall pay, any lawfully imposed Tax.

**5. Invoices:** The MRC for an initial partial calendar month of Service (if applicable) shall be pro-rated and may be invoiced upon initiation of Service. On an ongoing basis, ACTDC will invoice in advance Customer for Services each month at the beginning of the month. NRC shall be invoiced upon receipt by ACTDC of each Service Order. ACTDC will pass on any Taxes in the form of a line item(s) on Customer's invoice. Customer shall pay all invoices within thirty (20) calendar days of the date of the invoice (the "Due Date") without reduction, set-off or adjustment, and send its payments to the address specified on the invoice.

If Customer fails to pay any undisputed amounts under the Agreement when due, then, in addition to such sum and without prejudice to any other rights and remedies that ACTDC may have, Customer shall pay interest on such undisputed unpaid amount at the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed by law (the "Interest Rate"), until such sum is paid in full.

Customer may in good faith dispute any portion of an invoice provided that Customer:

- a) provides ACTDC with a written statement and supporting documentation regarding the dispute within fifteen (15) calendar days from the date of the relevant invoice,
- b) pays the full undisputed portion of the invoice by its original Due Date, and
- c) negotiates with ACTDC in good faith to resolve the dispute. Either Party may pursue its rights or remedies if the dispute is not resolved within thirty (30) calendar days from ACTDC's receipt of Customer's written statement. No interest shall be assessed on any payment that is disputed in good faith while such dispute is pending.

ACTDC's obligation to provide Services to Customer pursuant to the Agreement is subject to approval by ACTDC of the applicable Service Order and Customer's credit status. ACTDC may require Customer to submit a fully executed Credit Application prior to accepting a Service Order. Customer's obligation to pay any Service Fees or other amounts due under the Agreement shall not be subject to any rights of set-off, counterclaim, deduction, defense or other right which Customer may have against ACTDC or any other Person.

**6. Delivery, Acceptance and Commencement of Service:** ACTDC's provisioning and installation procedures for each Service Order are set forth in Appendix E hereto. The Service Commencement Date will be the earlier of the following:

- a) Completion of testing by ACTDC and acceptance by Customer;
- b) If after two (2) Business Days from completion of testing and turn over to Customer, Customer does not reject the Service, the Service will be deemed accepted; or
- c) In a multiple node network, Service Commencement will begin upon completion of a minimum of two nodes. Both Parties, in writing, prior to contract signing, shall agree upon any exceptions.

All Service Fees will begin on the Service Commencement Date.

**7. Provisioning of Service and Credits:** ACTDC will use commercially reasonable efforts to provide the Services 90% of the time as measured over any thirty (30) calendar day period. In the event that 0.2% downtime is exceeded in any given month, ACTDC will credit Customer with one full day usage (1/30th of the applicable MRC) upon ACTDC receipt of Customer's written request for such credit. Such written request must be received by ACTDC within thirty (30) calendar days of the outage and the credit shall be credited on the Customer's next monthly invoice. If ACTDC does not receive Customer's written notice within such thirty (30) calendar day period, Customer shall be deemed to waive its right to the credit. This credit is available only under normal operating conditions, and does not cover Service outages due to:

- a) a Force Majeure Event;
- b) the actions or omissions of Customer or its Affiliates, agents or invitees (including, but not limited to, periods of suspension of Service as permitted by this Agreement); or
- c) routine scheduled maintenance scheduled pursuant to Appendix E.

In the event Customer is owed an undisputed credit at the end of the contract period that is not renewed, ACTDC shall refund to Customer the amount of that undisputed credit.

Notwithstanding anything to the contrary contained in the Agreement, such credit shall be Customer's sole and exclusive remedy with respect to the failure or nonperformance of a Service. Customer shall not be entitled to any credits during any period during which it is past due on amounts owed to ACTDC.

In no event shall ACTDC's liability for outages exceed a total of one (1) month's MCR during any calendar month.

**8. Suspension or Termination of Service:** ACTDC may, at its sole discretion, but with at least five (5) calendar days prior written notice to Customer, suspend, or with at least fifteen (15) calendar days prior written notice to Customer, terminate, the Service if payment has not been received by the Due Date. ACTDC will use commercially reasonable efforts to restore Service within two (2) Business Days of ACTDC's receipt of the full payment of all current and overdue charges. ACTDC may assess a Service restoration fee of up to \$1,000 to restore Service after suspension of Service for nonpayment.

**9. Early Termination by Customer:** In addition to rights to terminate for default as set forth herein, Customer may, upon prior written notice, without liability except as set forth below regarding third party costs incurred by ACTDC, terminate the Service and applicable Service Order for convenience at any time prior to the FOC Date. If Customer cancels or terminates a Service after the FOC Date and prior to the end of the applicable Service Term, for reasons other than ACTDC default, or if ACTDC terminates a Service due to Customer default, Customer shall pay to ACTDC a termination charge equal to:

- a) all applicable accrued unpaid MRC and NRC specified in a Service Order, up to the date of termination, plus
- b) all disconnection, early cancellation, penalty or termination charges payable to third parties incurred by ACTDC on Customer's behalf relating to the Service, plus
- c) 100% of the balance of the total MRC payments for the remaining Service Term of the Service Order. Documentation will be provided upon request.

The Parties acknowledge and agree that if Customer terminates a Service pursuant to this Section 9, the applicable termination fee is actual value of the loss and damage likely to be suffered by ACTDC and is not a penalty. All termination charges shall be due and payable within twenty (20) calendar days of the effective date of termination. Customer shall be liable for any penalty or early termination charges incurred by ACTDC with respect to any third-party provider of Off-Net Service and any special construction and unrecoverable costs that ACTDC has incurred in efforts to establish and provide the Service pursuant to the Service Order and this Agreement. Any monetary sums deemed to be due and payable under this Agreement or Service Order shall survive the termination of this Agreement.



**10. Use of Service:** Customer represents, warrants and covenants that during the Term and/or each Service Term:

- a) it shall use each Service in compliance with, and subject to, all applicable government codes, laws, rules and regulations and will require that its customers' do the same;
- b) with respect to each Service, it shall secure and maintain in full force and effect during the applicable Service Term, any and all necessary approvals, consents, rights of way, permits, franchises, licenses or similar approvals from all governmental and other authorities;
- c) it shall not use its systems or any Service in a way that interferes or adversely affects the ACTDC Network or any other Person using the ACTDC Network or any communications and/or transmissions thereon, and it shall not physically access in any manner the ACTDC Network or any components thereof; and
- d) it shall make commercially reasonable efforts to ensure that the content it or its customers make available through the Service will not include any illegal content or result in any liability of ACTDC to any third party. To the extent the Service includes Internet access service, Customer shall execute and abide by the Acceptable Use Policy attached as Appendix F hereto.

**11. Liability and Warranties:** EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, THE SERVICE AND ALL EQUIPMENT IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ACTDC MAKES NO WARRANTY, REPRESENTATION OR INDEMNITY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE DELIVERY OR PERFORMANCE OF ANY SERVICE, THE ACTDC NETWORK, OR ANY WORK TO BE PERFORMED UNDER THE AGREEMENT, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, SATISFACTORY QUALITY OR NONINFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ACTDC ALSO SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE SERVICE OR ANY EQUIPMENT WILL BE ERROR FREE, SECURE OR UNINTERRUPTED EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW. THE WARRANTIES SET FORTH IN THE AGREEMENT CONSTITUTE THE ONLY WARRANTIES MADE BY ACTDC TO CUSTOMER WITH RESPECT TO THE SERVICE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED.

NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE HOWEVER ARISING, FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, LOSS OF REVENUE OR PROFIT, LOSS OF GOODWILL, LOSS OR USE OF ANY PROPERTY, COST OF SUBSTITUTE PERFORMANCE, EQUIPMENT OR SERVICES, DOWNTIME COSTS AND CLAIMS OF EITHER PARTY FOR DAMAGES, WHETHER FORESEEABLE OR NOT AND EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF, OR IN CONNECTION WITH, THE PERFORMANCE OR NONPERFORMANCE OF ANY OBLIGATIONS UNDER OR OTHERWISE RELATED TO THE AGREEMENT EXCEPT THOSE ACTUAL DAMAGES OR LOSSES CAUSED BY THE GROSS NEGLIGENCE, RECKLESS, AND/OR INTENTIONAL CONDUCT OF ACTDC IN FAILING TO REPLACE OR REPAIR ANY EQUIPMENT OR INFRASTRUCTURE THAT ACTDC OWNS OR EXERCISES EXCLUSIVE CONTROL. ACTDC IS

## ACTDC Master Services Agreement

NOT RESPONSIBLE FOR ANY WARRANTY OFFERED BY THE CUSTOMER TO ANY THIRD PARTY.

Notwithstanding any provision of the Agreement to the contrary, ACTDC's maximum cumulative liability to Customer for any claim, loss expense or damage of any nature whatsoever under the Agreement, or any Service Order, shall in no event exceed in the aggregate the sum of the Service Fees actually paid by Customer to ACTDC for the Service on which the claim is based.

The Parties expressly agree that no claim for losses or damages whatsoever in connection with the Agreement, including indemnification under the provisions of Section 12 below, shall be made more than two (2) years after the date that the event giving rise to such claim is known or reasonably should have been known to the Party making such claim.

**12. Indemnification:** Subject to the limitations set forth in Section 11 above, each Party shall indemnify and hold harmless the other Party, its employees, agents, officers and directors from and against all liabilities, claims, damages, losses, costs, expenses and judgments (including reasonable attorney's fees) and causes of action arising out of the negligence or willful misconduct of the indemnifying Party in the performance of, or related to the indemnifying Party's duties or obligations under the Agreement or any Service Order. In addition, Customer shall defend, indemnify and hold harmless ACTDC, its Affiliates and agents from and against all liabilities, claims, damages, losses, costs, expenses and judgments (including reasonable attorney's fees), arising out of, or relating to:

- a) the use of a Service by Customer or its customers, and
- b) claims of third parties seeking damages for any loss or misuse of data by Customer or its customers.

ACTDC shall have no liability to Customer's customers in relation to any Service and Customer shall indemnify ACTDC for any and all costs, damages, liabilities and expenses arising out of, or relating to, any claim by any such customer or end user.

**13. Default:** A default shall occur under the Agreement if:

- a) in the case of Customer's failure to pay any amount by the Due Date, Customer fails to pay that amount within 5 (5) calendar days after ACTDC notifies Customer in writing of such nonpayment,
- b) in the case of any other material breach of the Agreement, a Party fails to cure such breach within thirty (30) Adjusted Days of receipt of written notice thereof; provided, however, a default shall not have occurred if the relevant Party has taken actions to cure within said time period and thereafter diligently pursues such actions to complete the cure,
- c) Customer's unpaid balance or use of a Service exceeds Customer's credit limit, if any, for such Service,
- d) either Party makes a material misrepresentation to the other Party,
- e) if either Party violates any applicable law, statute or regulation with respect to the Service, or

- f) an Insolvency Event occurs with regard to a Party.

In the event of any default, the non-defaulting Party may:

- a) take such actions as it determines, in its sole discretion, necessary to correct the default;
- b) terminate the Service and the applicable Service Order; and/or
- c) pursue any legal remedies it may have under applicable law or principles of equity, including specific performance.

If Customer or end-user violates any applicable laws, statutes, or other legal requirements with respect to a Service, or if Customer's use of a Service interferes with or impairs the ACTDC Network, or creates a risk of injury to any Person or property damage, ACTDC may block Customer's or end-user signals or suspend the Service. ACTDC will notify Customer within 3 business days when such blockage or suspension occurs. Both Parties shall work diligently to restore of the affected Service. Any such blockage or suspension shall not be included in any applicable service level calculations and Customer shall not receive any service credits for the period in which Service was blocked or suspended pursuant to this Section.

**14. Software:** If Customer receives from ACTDC any software to be used in connection with a Service, whether installed locally or accessible remotely, Customer shall have a non-exclusive, nontransferable, revocable license to use such software solely for its own internal use to the extent necessary to use the Service. Customer shall not be entitled to any claim of title to, or any ownership interest in, the software (or any derivations or improvements thereto). Customer shall execute any documentation ACTDC reasonably requires to document ACTDC's ownership of, or right to, the software.

Customer agrees that it will not and will not permit others to:

- a) except as reasonably required for backup purposes, copy the software except as permitted by ACTDC;
- b) reverse engineer, decompile or disassemble the software save to the extent that it cannot be prohibited from so doing under applicable law;
- c) sell, lease, license or sub-license the software;
- d) create, write or develop any derivative software or any other software program based on the licensed software or any confidential information of ACTDC; or
- e) take any action prohibited by the owner of the software.

**15. Equipment; Infrastructure:** Customer shall not in any way have title or any interest in the ACTDC Network or any elements thereof pursuant to this Agreement. Customer also acknowledges that:

- a) any equipment ACTDC provides to Customer shall be used solely for the purpose for which it is provided by ACTDC;
- b) Customer shall take any actions as ACTDC reasonably directs to protect ACTDC's interests in any equipment provided by it and shall keep such equipment free and clear from all liens, claims and encumbrances;
- c) Customer shall not, and shall not allow others to, move, rearrange, disconnect, remove, repair, or otherwise tamper

- with any equipment supplied by ACTDC, without its prior written consent;
- d) Customer bears the entire risk of loss, theft, destruction or damage to ACTDC' equipment that is placed at the Customer's sites (excluding damage caused by ACTDC or its agents) and shall promptly notify ACTDC of any such loss, theft, destruction or damage;
  - e) in no event shall ACTDC be liable to Customer or any other Person for interruption of Service or for any other loss, cost or damage caused by, or related to, improper use or maintenance of ACTDC's equipment except as otherwise provided for in this agreement;
  - f) ACTDC shall not be responsible for any changes to the Service that cause the equipment to become obsolete or require modification or alteration;
  - g) if the equipment provided by ACTDC was manufactured by a third party, then ACTDC will pass to Customer any applicable manufacturer warranties and any rights or remedies that Customer may have regarding the performance or compliance of the third-party equipment are limited to those rights provided by the manufacturer of the equipment; and
  - h) ACTDC shall be permitted to inspect periodically at its discretion the equipment during the Service Term and with prior Notice to Customer remove the equipment from any Customer site promptly after termination or expiration of the Agreement or the Service in relation to which the equipment was provided. Customer shall be solely responsible for the installation, operation, maintenance, use, compatibility of any equipment or software not provided by ACTDC and ACTDC shall have no responsibility or liability in connection therewith.
  - i) ACTDC is not responsible for end-user CPE installation or maintenance. Customer is responsible for obtaining necessary approvals for locating and accessing any CPE on end-user premises.

**16. Confidentiality:** The terms of this Agreement are the proprietary information of both ACTDC and Customer and are not to be disclosed to any third party under any circumstances without the written permission of both Parties. This Section, however, shall not apply to information that is:

- a) publicly available other than through a breach of the Agreement,
- b) lawfully in the possession of the recipient before disclosure by the other Party and is not otherwise subject to a confidentiality undertaking,
- c) obtained through a third party that is free to disclose it, and
- d) required by law to be disclosed (and then, to the extent legally permissible, only after reasonable advance notice to the disclosing Party).

**17. Representations:** Each Party represents and warrants to the other Party that:

## ACTDC Master Services Agreement

- a) it has full right and authority to enter in to the Agreement and that by entering into the Agreement, it is not in violation of its organizational documents, or any law, regulation or agreement by which it is bound or to which it is subject;
- b) its execution, delivery and performance of the Agreement has been duly authorized by all requisite corporate action;
- c) it is a business entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization or incorporation; and
- d) there are no actions, suits or proceedings pending or threatened against it before any court or administrative agency that would materially impair its performance under the Agreement.

**18. Subject to Laws:** The Agreement is subject to, and Customer agrees to comply with, all applicable federal, state and local laws, regulations, rulings and orders of governmental agencies, including, but not limited to, the Communications Act of 1934, as amended (47 U.S.C. § 1 et seq.), the rules and regulations of the Federal Communications Commission and any state or local public utility or service commissions, and any other applicable telecommunications or other laws in the United States.

**19. Force Majeure:** Neither Party shall have any liability for any failure or delay in its performance under the Agreement (other than a failure to comply with payment obligations) due to the occurrence of a Force Majeure Event. The Party claiming relief under this Section shall notify the other Party in writing of the existence of the Force Majeure Event and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

**20. Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Except as provided below, and except as may be specified in an accepted Service Order, neither Party may assign the Agreement without the written consent of the other Party, which consent shall not unreasonably be withheld or delayed; provided, however, in the case of a permitted assignment by Customer, Customer shall remain liable for all duties and obligations, including, but not limited to payment of all sums due, hereunder. Notwithstanding the above, ACTDC may assign this Agreement to any Affiliate, or to ACTDC's successor pursuant to any reorganization or merger of its business, or pursuant to any sale or transfer of all or substantially all of its assets, without Customer's consent.

**21. Choice of Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to its principles of conflicts of law, other than New York General Obligations Law Sections 5-1401 and 5-1402). Any action or suit commenced pursuant to or in respect of this Agreement shall be brought solely in State or Federal courts situated in the State of New York.

**22. Material Change in Law:** If any Regulatory Requirement has the effect of canceling, changing or superseding any material term or provision of this Agreement or any Service Order, the Agreement will be deemed modified in such a way as the Parties mutually agree is consistent with the form, intent and purpose of the Agreement and is necessary to comply with the Regulatory Requirement. If the Parties cannot agree to modifications necessary to comply with a Regulatory Requirement within thirty (30) Adjusted Days after the Regulatory Requirement is effective, then either Party may terminate this Agreement and/or any Service Order impacted by the Regulatory Requirement effective as of the date of notice by providing written notice to the other Party.

**23. Notices:** All notices, demands, requests, or other communications which may be, or are required to be, given or served, or sent by any Party to any other Party pursuant to the Agreement shall be in writing and will be deemed to have been duly delivered or given when:

- a) delivered by hand (with written confirmation of receipt) before 5:00 p.m. EST on a Business Day (or otherwise on the next succeeding Business Day);
- b) sent by facsimile before 5:00 p.m. EST on a Business Day (or otherwise on the next succeeding Business Day) and a written confirmation of the transmission is received by the sender; or
- c) the next Business Day after being deposited for delivery with a nationally recognized overnight delivery service, such as Federal Express, and addressed or sent, as the case may be, to the appropriate addresses or facsimile numbers set forth on the cover sheet.

Each Party may designate by notice in writing a new address, to which any notice, demand, request or communication may thereafter be so given, served or sent.

**24. Severability:** If any term, clause, provision, covenant or condition contained in the Agreement is adjudicated to be illegal or unenforceable, all other terms, clauses, provisions, covenants or conditions of the Agreement shall remain in force, and the term, clause, provision, covenant or condition held illegal or unenforceable shall remain in effect as far as possible in accordance with the intention of the Parties.

**25. Waiver:** The failure of either Party at any time to enforce any right or remedy available to it under the Agreement or applicable Service Order, or otherwise, with respect to a breach or failure of the other Party shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other Party.

**26. Rules of Construction:** The captions or headings in the Agreement are strictly for convenience and shall not be considered in interpreting the Agreement or as amplifying or limiting any of its content. Words in the Agreement which import the singular connotation shall be interpreted as plural, and words which import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. Unless expressly defined herein, words having

well known technical or trade meaning shall be so construed. All listing of items shall not be taken to be exclusive, but shall include other items, whether similar or dissimilar to those listed, as the context reasonably requires. Except as set forth to the contrary in the Agreement, a Party's right or remedy shall be cumulative and without prejudice to any other right or remedy, whether contained therein or not. The Agreement has been fully negotiated between and jointly drafted by the Parties.

**27. Modification; Ranking:** The Agreement sets forth the entire understanding of the Parties and supersedes any and all prior agreements, arrangements or understandings relating to the subject matter of the agreement. The Agreement may only be amended, modified or supplemented by an instrument in writing executed by an authorized representative of each Party and specifically stating that the Parties intend to modify, amend or supplement the Agreement. If there is any inconsistency between a provision of this Master Services Agreement, its Appendices, or a provision in the applicable Service Order, then the Service Order shall take priority, followed by the Appendices, then followed by this Master Services Agreement.

**28. No Third-Party Beneficiaries:** No provision of this Master Services Agreement shall be enforceable by any third party.

**29. Relationship of the Parties:** The Parties shall perform all of their duties under the Agreement as independent contractors or independent parties and shall discharge their contractual obligations at their own risk, subject, however, to the terms and conditions thereof. The relationship between the Parties shall not be deemed to be that of an agent and principal, partners, or joint venturers, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to, tax purposes. The Parties understand and agree that, except as specifically provided in the agreement neither Party grants the other Party the power or authority to make any commitments on behalf of the other Party.

**30. Counterparts:** The Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

**31. Insurance and Liability:** Throughout the term of this Agreement, the Customer shall maintain the following insurance coverage:

- a) Comprehensive or commercial general liability insurance covering liability for injury to or death of persons or damage to property including, but not limited to, work associated with this Agreement, including liability arising from use of independent contractors and contractual liabilities assumed under this Agreement. The coverage shall be in the amount of One Million Dollars (\$1,000,000) combined single limit per occurrence and aggregate, where applicable, for bodily injury, personal injury and property damage. Such coverage may be excess over each Parties self-insured retention.

- b) Business automobile liability insurance including coverage for owned, hired and non-owned vehicles in the amount of One Million Dollars (\$1,000,000) combined single limit per occurrence/accident or bodily injury and property damage. Such coverage may be excess over each Parties self-insured retention.
- c) Worker's Compensation in the statutory amounts and with benefits required by the laws of the state in which the work is performed and the state in which the employees are hired, including employer's liability coverage with a minimum liability limit of One Million Dollars (\$1,000,000) for bodily injury per accident. Such coverage may be excess over each Parties self-insured retention.

The Customer shall require each contractor and/or subcontractor to obtain and maintain at all times during the term of this Agreement, insurance which is equivalent to that required of the Parties hereunder. The insurance will cover each Interconnection or Facilities Order issued and accepted hereunder.

**32. Dispute Resolution:** Except as otherwise specifically provided in or permitted by this Agreement, all disputes, differences of opinion or controversies arising in connection with this Agreement shall be resolved first, by the use in good faith of mutual best efforts to arrive at an agreeable resolution. If, after negotiating in good faith for a period of ninety (90) calendar days, or any agreed further period, the Parties are unable to agree, then the Parties may select a forum acceptable to both for the resolution of the dispute (such as, but not limited to, mediation, arbitration or alternative dispute resolution), and establish the rules and requirements therefor, and proceed to settle the dispute in accordance therewith. Notwithstanding the foregoing, nothing herein shall be deemed to limit or restrict the rights and remedies either Party may have against the other, at law or in equity.

**33. Non-solicitation of ACTDC Staff:** After the termination of this Agreement, Customer shall not solicit ACTDC staff for a period of one year from the date of such termination.

**34. Material Adverse Change:** Any change in Customer ownership that results in a change in the controlling interest of the company shall be communicated to ACTDC thirty days prior to the effective date of such change, or as soon as possible thereafter. ACTDC may suspend or terminate Service and this Agreement with notice of such change.

**35. Comply with fair labor acts:** The Customer agrees that to the best of its knowledge:

- a) that in the hiring of employees for the performance of work under this Agreement, or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor shall by reason of religion, race, creed, color, sex, age, physical disability, national origin, sexual preference or gender identity, discriminate against any citizen of the State of New York who is qualified



**ACTDC Master Services Agreement**

- and available to perform the work to which the employment relates;
- b) and that no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of religion, race, creed, color, sex, age, physical disability national origin or sexual preference or gender identity; and
  - c) that in the provision of any service offered through use of the license granted in this Agreement, neither the Customer, nor any subcontractor or person acting on his/her or its behalf shall discriminate on account of religion, race, creed, color, sex, age, physical disability national origin or sexual preference or gender identity.

This Agreement is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

Signed by:

**Allegany County Telecommunications Development Corporation**

By: \_\_\_\_\_  
Name: Philip Curran  
Title: Chairman  
Date: \_\_\_\_\_

**Southern Tier Wireless**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

List of Attachments

**Appendix A Service Order**

Appendix B End-User Customer Service Requirements

Appendix C Client Connection Specifications

Appendix D Service Offerings & Pricing

Appendix E Provisioning and Installation

Appendix F Acceptable Use Policy

**Appendix A**  
**Service Order**

Customer Order #: \_\_\_\_\_

Existing Contract End Date: \_\_\_\_\_

**Customer Information**

Customer Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**Billing Information:**

Billing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**Technical Contact For ACTDC:**

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**For end-users (Business Hours):**

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**For end-users (After Hours):**

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**Service Information**

Requested Service Date: \_\_\_\_\_

Bandwidth Ordered: \_\_\_\_\_ Mbps

**Allegany County Telecommunications Development Corporation**

By: \_\_\_\_\_  
Name: Philip Curran  
Title: Chairman  
Date: \_\_\_\_\_

**Southern Tier Wireless**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Appendix B**

**End-User Customer Service Requirements**

**1. Technical Support and Billing contact information for end-users:** ACTDC is committed to insuring the best possible experience to end-users on the network. To that end, ACTDC expects the Customer to have personnel and systems in place to provide timely and beneficial service to its users.

Customer is required list their Technical Support and Billing contact information prominently on its website and on its billing statements to its users. Customer is also required to notify ACTDC immediately if any Technical Support or Billing contact information changes.

ACTDC will direct Customer's end-users to utilize the contact information listed below if ACTDC receives any Technical Support and/or Billing queries directly from Customer's end-users.

**a. Technical Support**

**i. Business Hours:**

**1. Phone:**

a. Human representative available? Yes / No

b. Option to leave message? Yes / No

i. End-user will be contacted within

**2. Email:**

a. End-user will be contacted within

**3. Additional Contact Method:**

**ii. After Hours**

**1. Phone:**

a. Human representative available? Yes / No

b. Option to leave message? Yes / No

i. End-user will be contacted within

**2. Email:**

a. End-user will be contacted within

**3. Additional Contact Method:**

**b. Billing Issues**

**i. Business Hours:**

**1. Phone:**

a. Human representative available? Yes / No

b. Option to leave message? Yes / No

i. End-user will be contacted within

**ii. After Hours**

**1. Phone:**

a. Human representative available? Yes / No

b. Option to leave message? Yes / No

i. End-user will be contacted within

**2. Email:**

a. End-user will be contacted within

**3. Additional Contact Method:**

**2. Consent for ACTDC to verify customer support systems:** ACTDC may periodically utilize the information listed above in order to verify that Customer's support systems are in place and operational. ACTDC will provide Customer with feedback that it compiles as a result of these efforts.

## ACTDC Master Services Agreement

**3. Request Tracking:** Customer will utilize a request tracking system that will allow them to keep track of all request history by user. ACTDC may require Customer to provide to ACTDC the request history for specific users if needed to respond to complaints that ACTDC receives from Customer's end-users that Customer is not responding to end-user's issue.

**4. End-user Contact Information:** Customer agrees to allow ACTDC to have access to, or will provide to ACTDC upon request, Customer's end-user contact information. This information may be used by ACTDC in order to solicit end-user feedback on the ACTDC network and/or end-user satisfaction with Customer. This contact information will not be shared with any other Customers.

### **Allegany County Telecommunications Development Corporation**

By: \_\_\_\_\_  
Name: Philip Curran  
Title: Chairman  
Date: \_\_\_\_\_

### **Southern Tier Wireless**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Appendix C**  
**Client Connection Specifications**

In order to insure quality service to all end-users connected to the Access Point, the Customer is expected to adhere to the following connection specification when installing customer premises equipment (CPE).

Wireless data transmission is subject to interference from other broadcast equipment, as well as obstacles that interrupt the Line-of-site (LOS) between CPE and wireless access points. ACTDC will provide the Customer access to software that will allow the Customer to monitor their CPE installations, and the Customer is responsible to rectify any situations with their CPE that is interfering with the service quality of other users on the access point, even if the CPE was installed to the specifications above.

ACTDC reserves the right to limit and/or terminate connections that are adversely impacting network performance for other users. ACTDC will attempt to notify the Technical Contact specified in the Service Order before taking any action, but in the event the Technical Contact cannot be reached, or is unable to take immediate action to eliminate the degradation of service to other users, ACTDC reserves the right to terminate any connection that is adversely impacting the experience of other users.

**Allegany County Telecommunications Development Corporation**

By: \_\_\_\_\_  
Name: Philip Curran  
Title: Chairman  
Date: \_\_\_\_\_

**Southern Tier Wireless**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Appendix D  
Service Offerings and Pricing

Allegany County Telecommunications  
Development Corporation

2021 Bandwidth Rate Sheet

<u>Megs per month</u>	<u>Rate Per meg</u>	<u>Per Provider</u>
50	\$9.00	\$450.00
75	\$8.75	\$656.25
100	\$8.50	\$850.00
125	\$8.37	\$1,046.25
150	\$8.25	\$1,237.50
175	\$8.00	\$1,400.00
200	\$7.50	\$1,500.00
225	\$7.37	\$1,658.25
250	\$7.25	\$1,812.50
300	\$7.00	\$2,100.00
350	\$6.50	\$2,275.00
400	\$6.25	\$2,500.00
500	\$5.50	\$2,750.00
700	\$5.00	\$3,500.00
900		
	\$4.50	
	\$4,050.00	



**Appendix E**  
**Provisioning and Installation**

1. **Provisioning:** Provisioning will be provided as set forth below.
2. **Ordering Service**
  - a. **Service Order Issuance:** Upon receipt of a Service Order from Customer, ACTDC will provide a unique order identifier and confirmation to the e-mail address provided on the Service Order to Customer ("Acknowledgement") in approximately one (1) Business Day following the receipt of the Service Order.
  - b. **Firm Order Commitment ("FOC"):** If ACTDC is able to provide the Service set forth in the Service Order and accepts the Service Order then ACTDC shall provide an FOC to the e-mail address provided on the Service Order to Customer as soon as any corrections, clarifications or provisioning required for the processing of the Service Order are made and understood by the Parties. Such FOC will contain a statement stating an "on or before" date on which Customer will receive network configuration specifications and access to Customer exclusive Virtual Local Area Network(s) (VLANs) for the Service ordered.
3. **Service Date:** ACTDC will provision and provide access to one or more VLANs on the ACTDC network for the exclusive use of the Customer specified in the Service Order. Equipment and Service that is installed by the Customer, including but not limited to, equipment that is installed at an end-user's location, or Customer owned access points are the responsibility of Customer. Equipment and Service on the ACTDC wireless backbone are the responsibility of ACTDC, and ACTDC will maintain all such equipment. ACTDC will test the Service and at the completion thereof, shall notify Customer that the Service is available for use.
  - a. **Notice of Completion:** ACTDC will provide a notice of completion to the e-mail address provided on the Service Order to the Customer of the service completion Date. Customer has two (2) Business Days to verify completion and proper operation of the Service, otherwise the Service will be deemed accepted by Customer. Unless ACTDC is notified of problems with the Service, billing will commence two (2) days after the notice of completion. ACTDC shall not be liable for any damages due to late Service Dates including, but not be limited to, delays (i) obtaining regulatory approvals and right-of-ways, (ii) concerning material deliveries and (iii) labor related matters beyond its control.
4. **Cancellation by Customer:** Customer may cancel a Service Order if ACTDC receives written notice of cancellation before the FOC Date without termination liability for that Service Order, subject to the exceptions set forth in the Agreement. If Customer cancels a Service Order after the FOC Date, liquidated damages, as set forth in this Agreement shall apply.
5. **Maintenance, Repair and Upgrades:** ACTDC shall have full and complete control of the configuration, design, arrangement of the

## **ACTDC Master Services Agreement**

ACTDC Network. ACTDC shall use commercially reasonable efforts to perform all scheduled maintenance during a maintenance window between 9:00am and 4:00pm, which may include, but is not limited to, substituting, changing or reconfiguring equipment and facilities with respect to a Service). ACTDC will use commercially reasonable efforts to notify Customer at least ten (10) days prior to any interruption of service in the event ACTDC determines that must interrupt a Service to perform any scheduled maintenance. ACTDC also reserves the right to upgrade the capacity of, and make enhancements to, the ACTDC Network as it deems necessary. ACTDC shall attempt to minimize such interruptions to, or impairment of, a Service arising from the implementation of any Network enhancement or upgrade. However, in no event shall an interruption for planned enhancements, upgrades or maintenance constitute a failure of performance by ACTDC of a Service in any manner EXCEPT IF ACTDC FAILS TO PROVIDE THE NOTICE SET FORTH IN THIS PARAGRAPH WITHIN THE TEN (10) DAYS REQUIRED HEREIN. In the event of an emergency requiring unscheduled maintenance, ACTDC shall notify Customer as promptly as possible.

**Appendix F**  
**Acceptable Use Policy**

**Introduction:** This acceptable use policy (the "Policy") defines acceptable practices for the use of ACTDC's services (the "Service"). By using the Service, Customer acknowledges that they and their users that have gained access to the Service through Customer account ("Users") are responsible for compliance with the Policy. Customer is responsible for violations of this Policy by any User that accesses the Services through their account. While it is not ACTDC's intent to control or monitor online experience or the content of online communications, ACTDC may edit or remove content that ACTDC deems to be in violation of the Policy or that ACTDC otherwise deems unlawful, harmful or offensive. The Policy applies to all aspects of the Service. "ACTDC" means Allegany County Telecommunications Development Corporation, and all of its affiliates (including direct and indirect subsidiaries and parents). "ACTDC Network" includes, without limitation, ACTDC's constructed or leased transmission network, including all equipment, systems, facilities, services and products incorporated or used in such transmission network.

This Policy is designed to assist in protecting the ACTDC Network, the Service, our Users and the Internet community as a whole from improper and/or illegal activity over the Internet. In situations where data communications are carried across networks of other Internet Service Providers (ISPs), Users of the ACTDC Network must also conform to the applicable acceptable use policies of such other ISPs.

**Rights of ACTDC**

**Suspension or Termination of Service:** If Users engage in conduct while using the Service that violates the Policy, or is otherwise illegal or improper, ACTDC reserves the right to suspend and/or terminate the Service or the User's access to the Service. ACTDC will generally attempt to notify Customer of any activity in violation of the Policy and request that the User cease such activity; however, in cases where the operation of the ACTDC Network is threatened or cases involving unsolicited commercial email/SPAM, mail relaying, alteration of Customer's source IP address information, denial of service attacks, illegal activities, suspected fraud in connection with the use of Service, harassment or copyright infringement, ACTDC reserve the right to suspend or terminate Customers Service or the User's access to the Service without notification. In addition, ACTDC may take any other appropriate action against a User for violations of the Policy. ACTDC does not make any promise, nor does ACTDC have any obligation, to monitor or police activity occurring using the Service and will have no liability to any party, including Customer, for any violation of the Policy.

**Cooperation with Investigations:** ACTDC will cooperate with appropriate law enforcement agencies and other parties involved in investigating claims of illegal or inappropriate activity. ACTDC reserves the right to disclose Customer information to the extent authorized by federal or state law. In those instances involving child pornography, ACTDC complies with all applicable federal and state laws including providing notice to

the National Center for the Missing and Exploited Children or other designated agencies.

**Privacy:** Because the Internet is an inherently open and non-secure means of communication, any data or information a User transmits over the Internet may be susceptible to interception and alteration. ACTDC makes no guarantee regarding, and assume no liability for, the security and integrity of any data or information a User transmits via the Service or over the Internet, including any data or information transmitted via any server designated as "secure."

**Filters:** ACTDC reserves the right to install and use, or to have Customer install and use, any appropriate devices to prevent violations of this Policy, including devices designed to filter or terminate access to the Service.

**Modifications to Policy:** ACTDC reserves the right to modify this Policy. ACTDC will give Customer 10 days' notice of any such modifications either via email or phone and will post the revised version of the Policy on our Web site, [www.actdc.net](http://www.actdc.net).

**Prohibited Uses Illegal Activity:** The Service shall not be used for any unlawful activities or in connection with any criminal or civil violation and the Services shall in all cases be used in compliance with applicable law. Use of the Service for transmission, distribution, retrieval, or storage of any information, data or other material in violation of any applicable law or regulation (including, where applicable, any tariff or treaty) is prohibited. This includes, without limitation, the use or transmission of any data or material protected by copyright, trademark, trade secret, patent or other intellectual property right without proper authorization and the transmission of any material that constitutes an illegal threat, violates export control laws, or is obscene, defamatory or otherwise unlawful.

**Unauthorized Access/Interference:** A User may not attempt to gain unauthorized access to, or attempt to interfere with or compromise the normal functioning, operation or security of, any portion of the ACTDC Network. A User may not use the Service to engage in any activities that may interfere with the ability of others to access or use the Service or the Internet. A User may not use the Service to monitor any data, information or communications on any network or system without authorization. A User may not attempt to gain unauthorized access to the user accounts or passwords of other Users.

**Unsolicited Commercial Email Spamming/Mailbombing:** A User may not use the Service to transmit unsolicited commercial e-mail messages or deliberately send excessively large attachments to one recipient. Any unsolicited commercial e-mail messages or a series of unsolicited commercial e-mail messages or large attachments sent to one recipient is prohibited. In addition, "spamming" or "mailbombing" is prohibited. Use of the service of another provider to send unsolicited commercial email, spam or mailbombs, to promote a site hosted on or connected to the ACTDC Network, is similarly prohibited. Likewise, a User may not use the Service to collect responses from mass unsolicited e-mail messages.

**Spoofing/Fraud:** Users are prohibited from intentionally or negligently injecting false data into the Internet, for instance in the form of bad routing information (including but not limited to the announcing of networks owned by someone else or reserved by the Internet Assigned Numbers Authority) or incorrect DNS information. A User may not attempt to send e-mail messages or transmit any electronic communications using a name or address of someone other than the User for purposes of deception. Any attempt to impersonate someone else by altering a source IP address information or by using forged headers or other identifying information is prohibited. Any attempt to fraudulently conceal, forge or otherwise falsify a User's identity in connection with use of the Service is prohibited.

**USENET Postings:** All postings to USENET groups must comply with that group's charter and other policies. Users are prohibited from cross posting to unrelated news groups or to any news groups where the post does not meet that group's charter. Continued posting of off-topic messages, including commercial messages (unless specifically invited) is prohibited. Disrupting newsgroups with materials, postings or activities that are (as determined by ACTDC in its sole discretion) frivolous, unlawful, obscene, threatening, abusive, libelous, hateful, excessive or repetitious, unless such materials or activities are expressly allowed or encouraged under the newsgroup's name, FAQ or charter.

The following activities are also prohibited:

- Intentionally transmitting files containing a computer virus or corrupted data.
- If ACTDC has specified bandwidth limitations for Customer account, use of the Service shall not be in excess of those limitations.
- Attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilization, or other methods to document use of ACTDC's services.
- Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP, which includes the facilitation of the means to deliver unsolicited commercial email.
- Any activity that disrupts, degrades, harms or threatens to harm the ACTDC Network or the Service.
- Any use of another party's electronic mail server to relay email without express permission from such other party is prohibited.
- Any other inappropriate activity or abuse of the Service (as determined by us in our sole discretion), whether or not specifically listed in this Policy, may result in suspension or termination of the User's access to or use of the Service.

This listing of prohibited activities is not exhaustive and ACTDC reserves the right to determine that any conduct that is or could be harmful to the ACTDC Network, ACTDC's customers or Internet users is in violation of this Policy and to exercise any or all of the remedies contained in this Policy.

**Responsibilities of Customer**

**Unauthorized Account Access Notification:** Users are entirely responsible for maintaining the confidentiality of password and account information, as well as the security of their network. Customer agrees immediately to notify ACTDC of any unauthorized use of their account or any other breach of security known to Customer. If Customer becomes aware of any violation of this Policy by any Person, including Users that have accessed the Service through their account, Customer is required to notify ACTDC.

**Impending Security Event Notification:** Customer is responsible for notifying ACTDC immediately if they become aware of an impending event that may negatively affect the ACTDC Network. This includes extortion threats that involve threat of "denial of service" attacks, unauthorized access, or other security events.

**Customer and User System Configuration:** All Users of the ACTDC Network are responsible for configuring their own systems to provide the maximum possible accountability. ACTDC shall not be liable for any damage caused by such system configurations regardless of whether such configurations have been authorized or requested by ACTDC. For example, Users should ensure there are clear "path" lines in news headers so that the originator of a post may be identified. Users should also configure their Mail Transport Agents (MTA) to authenticate (by look-up on the name or similar procedures) any system that connects to perform a mail exchange, and should generally present header data as clearly possible.

Users of the ACTDC Network are responsible for educating themselves and configuring their systems with at least basic security. Should systems at a end user's site be violated, the end-user is responsible for reporting the violation and then fixing the exploited system. For instance, should a site be abused to distribute unlicensed software due to a poorly configured FTP (File Transfer Protocol) Server, the user is responsible for re-configuring the system to stop the abuse.

**Open Internet Compliance Statement:** Customer is required to create an Open Internet Compliance Statement and make it readily available to Users via Customer's website.

**DMCA Agent Filing:** Customer is required to register an Digital Millennium Copyright Act Agent. This can be completed on the DMCA website - (<https://dmca.copyright.gov/osp/login.html>)

**Create Copyright Infringement Policy:** Customer is required to create a Copyright Infringement Policy and make it readily available to Users via Customer's website.

**CALEA System Security and Integrity Plan:** Customer is required to complete and file a CALEA System Security and Integrity Plan.

**Complaints**

**Customer Notification:** ACTDC shall not be required to determine the validity of complaints received before taking action under this AUP. In most cases, ACTDC will notify Customer of complaints received by ACTDC regarding an alleged violation of this Policy. Customer agrees to

promptly investigate all such complaints and take all necessary actions to remedy any violations of this Policy. ACTDC may inform the complainant that Customer is investigating the complaint and may provide the complainant with the necessary information to contact them directly to resolve the complaint.

The Technical Contact identified by Customer in the Service Order will serve as the Customer representative for the purposes of receiving such communications.

A complaint from the recipient of commercial email, whether received directly or through an antispamming organization, shall be evidence that the message was unsolicited. ACTDC has no obligation to forward the complaint to the User or to identify the complaining parties.

**Claims of Copyright Infringement:** It is ACTDC's policy to terminate, in appropriate circumstances, the rights of subscribers who are repeat infringers to access or use of this service. By entering into this contract, Customer agrees not to knowingly post, host, transmit, or store on ACTDC servers any software, audio or video files, photographs, images, documents, text or other material ("Content") that infringes any third-party's copyrights. Customer further expressly agree that ACTDC may disable access to or remove any Content from ACTDC servers (including, but not limited to, Content that Customer has posted, hosted, transmitted or stored) that ACTDC believes to be infringing (whether or not ACTDC is in fact correct in its assessment) or that is subject of a notification duly sent to ACTDC pursuant to the Digital Millennium Copyright Act ("Notification"). If Customer believes that ACTDC has mistakenly disabled access to or removed Content that is non-infringing, Customer may contact ACTDC at support@actdc.net, in which case ACTDC will promptly provide Customer with a copy of the Notification or the basis for ACTDC's action so that Customer may resolve the matter directly with the copyright owner. Under no circumstances may ACTDC be held liable for removing or disabling access to Content.

**Additional Terms and Conditions:** The use of the ACTDC Network by a customer of ACTDC is subject to the terms and conditions of any agreements entered into by such customer and ACTDC. This Policy is incorporated into such agreements by reference.

**How to Notify ACTDC of Abuse:** Any complaints regarding prohibited use or other abuse of the ACTDC Network, including violations of this Policy, should be sent to ACTDC. Please include all applicable information that will assist ACTDC in investigating the complaint, including all applicable headers of forwarded messages.

Sites experiencing live attacks from ACTDC customers should contact ACTDC utilizing the current emergency call instructions sheet information that is provided to Last Mile Providers to submit a complaint as quickly as possible. Describe the urgency of the situation should Customer need immediate attention.







**ACTDC**  
ALLEGANY COUNTY TELECOMMUNICATIONS DEVELOPMENT CORP.  
6087 NYS ROUTE 19 N – SUITE 400  
BELMONT, NY 14813  
585-268-7472

This Maintenance Services Agreement ("Agreement"), dated as of DATE: \_\_\_\_\_ 2021 is entered into by and between Allegany County Telecommunications Development Corporation ("ACTDC") with its principal place of business at 6087 NYS Route 19 N – Suite 400, Belmont, NY 14813 and Southern Tier Wireless ("Contractor") P.O. Box 275 Rushford NY 14777, pursuant to which Contractor agrees to provide maintenance services to ACTDC.

## **I. PROJECT TASKS:**

Southern Tier Wireless Scope of Work.

- Be point of contact for system technical issues 24/7
- Work with appropriate parties to resolve issues in a timely manner
- Provide on-site, tower site, technical assistance as necessary to resolve issues
- Monitor network with other parties to react to technical issues as soon as possible
- Advise ACTDC board of any troubleshooting issues that need to be addressed.
- Work with ACTDC to develop the Network Management System (NMS) system that can be integrated into the system in order to provide Southern Tier Wireless the most accurate and timely information.
- This contract does not include the climbing of towers, which can be done for an extra fee.

If there are other areas that need oversight and technical assistance that warrant additional charges, they can be added to this contract via letter addendum signed by both parties.

## **II. COMPENSATION:**

The following represents the estimated fees required to complete this project as outlined above:

Southern Tier Wireless is prepared to provide the following services for a fee of \$700 per month.

## **III. COMMENCEMENT OF WORK:**

The work on the project is set to commence December 1, 2020. The Project will be coordinated with ACTDC Board and Southern Tier Wireless Owner or other designate.

#### **IV. STANDARD TERMS & CONDITIONS:**

Attached hereto and made part of this proposal are our Standard Terms and Conditions.

##### **A. TERMINATION**

This contract will continue until a mutually agreed upon time in the future to be discontinued. Either party may discontinue the contract with 60 days notice.

This Agreement may be terminated by either party by 60 days written notice in the event of substantial failure to perform in accordance with the terms hereof by one party through no fault of the other party. If this Agreement is so terminated, the Contractor shall be paid for services performed on the basis of his reasonable estimate for the portion of work completed prior to termination. In the event of any termination, the Contractor shall be paid all terminal expenses resulting there from, plus payment for additional services then due. Any primary payment made shall be credited toward any terminal payment due the Contractor. If, prior to termination of this Agreement, any work designed or specified by the Contractor during any phase of the work is abandoned, after written notice from the client, the Contractor shall be paid for services performed on account of it prior to receipt of such notice from the client.

##### **B. OWNERSHIP OF DOCUMENTS**

All documents, including original drawings, estimates, specifications, field notes and data, are to remain the property of the ACTDC. The Contractor may, at his expense retain the reproducible copies of drawings and copies of other documents.

##### **C. ESTIMATES**

Since the Contractor has no control over the cost of labor and materials, or over competitive bidding and market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications, but the Contractor does not guarantee the accuracy of such estimates as compared to the Contractors bid or the project construction cost.

##### **D. INDEPENDENT CONTRACTOR**

The Contractor agrees that in accordance with its status as an independent contractor, it will conduct itself with such status, that it will neither hold itself out as nor claim to be an officer or employee of the client, by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer or

employee of the client, including, but not limited to, Liability Insurance, Workmen's Compensation coverage, unemployment insurance benefits or Social Security coverage.

**E. CONTRACTOR NOT AN EMPLOYEE**

The Contractor agrees not to hold himself out as an officer, employee or agent of the ACTDC, nor shall he make any claim against the ACTDC as an officer, employee or agent thereof for such benefits accruing to said officers, employees or agents.

**F. SUCCESSORS AND ASSIGNS**

The ACTDC and the Contractor each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the ACTDC nor the Contractor shall assign, submit or transfer his interest in this Agreement without the written consent of the other.

**G. ACTDC NOT RESPONSIBLE FOR SAFETY PROVISIONS**

The ACTDC is not responsible for construction means, methods, techniques, sequences or procedures, time of performance, programs, or for any safety precautions in connection with the construction work. The ACTDC is not responsible for the Contractor's failure to execute the work in accordance with the Contract Drawings and/or Specifications.

**H. TIMELY PAYMENT OF BILLS FOR SERVICES**

All Services bills for services will be due and payable within 30 days of their date of issuance. Amounts unpaid after that date shall be subject to interest charges computed at the rate of 1.5% per month for all unpaid amounts.

**I. INDEMNITY**

The ACTDC will require any Contractor and Subcontractors performing the work to hold it harmless and indemnify and defend the Owner and Contractor, their officers, employees and agents from all claims resulting from the Contractor's negligence in the performance of the work.

ACTDC

**Phil Curran**

**Chairman**

---

*Signature*

---

*Date*

Southern Tier Wireless

**Wayne Hawley**

**Owner**

---

*Signature*

---

*Date*



## **CODE OF ETHICS/CONFLICT OF INTEREST POLICY**

### **OVERVIEW**

This Code of Ethics and Conflict of Interest Policy shall apply to all directors of the Board and employees of the Allegany County Telecommunications Development Corporation ("Telecommunications Development Corporation"). These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the directors and employees and to preserve public confidence in the Telecommunications Development Corporation's mission. This code is adopted pursuant to New York Public Authorities Law section 2824(1) (d) and section 73 and 74 of the New York Public Officers Law.

### **DEFINITIONS**

As used in this policy:

"Director" — A member of the Board of Directors of the Allegany County Telecommunications Development Corporation who in this capacity is also deemed to be a state director of a local public authority under section 1605(l) of the Not-for-Profit Law ("the Telecommunications Development Corporation Act") and as such is subject to the ethical responsibilities of section 73 and 74 of the Public Officers Law and New York Public Authorities Law section 2824(1) (d).

"Employee" — A non-volunteer employee of or one in the employ of a contractor that provides services to the Allegany County Telecommunications Development Corporation who in this capacity is also deemed to be a state employee of a local public authority under section 1605(l) of the Not-for-Profit Law ("the Telecommunications Development Corporation Act") and as such is subject to the ethical responsibilities of section 73 and 74 of the Public Officers Law and New York Public Authorities Law section 2824(1)(d).

"Family" — A parent, sibling, spouse or child of a person or any members of a person's immediate household.

"Interest" — A benefit or advantage of an economic or tangible nature that a person or a member of his or her family would gain or lose as a result of any decision or action, or omission to decide or act, on the part of the Board of Directors of the Telecommunications Development Corporation or any of its officers and employees.

"Officer" — Any person appointed or hired to serve the Allegany County Telecommunications Development Corporation in any capacity, whether paid or unpaid, or for a term fixed or not fixed, including, without limit, persons serving on a temporary, part-time or seasonal basis.

Officer includes the Executive Director, any other designated officer, and any member of the Board of Directors.

### **CONFLICT OF INTEREST POLICY**

No Telecommunications Development Corporation Director or Employee of the Telecommunications Development Corporation should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

## STANDARDS

1. Officers, Directors, and Employees shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one's official duties.
2. Officers, Directors, and Employees shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the directors' or employees' official position that could create any conflict between their public duties and interests and their private interests.
3. Officers, Directors, and Employees shall not accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the Telecommunications Development Corporation.
4. Officers, Directors, and Employees shall not use or attempt to use their official position with the Telecommunications Development Corporation to secure unwarranted privileges for themselves, family members, or others, including Telecommunications Development Corporation employment, or contracts for materials or services with the Telecommunications Development Corporation.
5. Directors and Employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
6. Officers, Directors, and Employees may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
7. Officers, Directors, and Employees shall manage all matters within the scope of the Telecommunications Development Corporation's mission independent of any other affiliations or employment. Directors and employees employed by more than entity shall strive to fulfill their professional responsibility to the Telecommunications Development Corporation without bias and shall support the Telecommunications Development Corporation's mission to the fullest extent possible.
8. Officers, Directors, and Employees shall not use Telecommunications Development Corporation property, including equipment, telephones, vehicles, computers, or other resources, or disclose information acquired in the course of their official duties in a manner inconsistent with State or local law or policy and the Telecommunications Development Corporation's mission and goals.
9. Officers, Directors, and Employees are prohibited from conducting any business with the Telecommunications Development Corporation for two (2) years following employment with the Telecommunications Development Corporation, consistent with the provisions of the New York Public Officers Law.

10. No Telecommunications Development Corporation Officer, Director, or Employee acquire any interest, direct or indirect, in real property of the Telecommunications Development Corporation, in any real property to be acquired by the Telecommunications Development Corporation, or in any real property to be acquired from the Telecommunications Development Corporation.
11. No Telecommunications Development Corporation Officer, Director, or Employee shall have or enter into any contract with a third party who has or does enter into a contract with the Telecommunications Development Corporation unless:
  - (a) The third-party contract to which the Telecommunications Development Corporation is a party is with the County of Allegany;
  - (b) The third-party contract is awarded pursuant to the competitive bidding procedures of the General Municipal Law; or
  - (c) The third-party contract is one with respect to which the Telecommunications Development Corporation Officer, Director, or Employee:
    - (i) Has no interest;
    - (ii) Has no duties or responsibilities, or, if the contract with the person is one which the Telecommunications Development Corporation officer or employee entered into prior to becoming a Telecommunications Development Corporation Officer, Director, or Employee, he or she abstains from any performance of duties or responsibilities; and
    - (iii) Exercises or attempts to exercise no influence.
  - (d) No prohibited conflict of interest shall be found involving a contract with a person, firm, corporation or association in which a Telecommunications Development Corporation Officer, Director, or Employee has an interest which is prohibited solely by reason of employment as an officer or employee thereof, if the remuneration of such employment will not be directly affected as a result of such contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of such contract.
12. No Telecommunications Development Corporation Officer, Director, or Employee shall discuss, vote on, decide or take part in, formally or informally, any matter proposed or pending in which s/he has an interest. This provision shall not apply to any Telecommunications Development Corporation Officer, Director, or Employee whose interest in the proposed or pending matter is de minimis, provided that these procedures are followed strictly:
  - (a) The Telecommunications Development Corporation Officer, Director, and/or Employee shall identify his or her interest, i.e., the benefit or advantage that would be gained or lost if the Telecommunications Development Corporation acted on the matter in various ways, and the underlying basis of such interest, such as ownership, investment, contract, claim, employment, or relationship;
  - (b) The Telecommunications Development Corporation Officer, Director, and/or Employee shall completely and specifically describe and disclose his or her interest

and its underlying basis, if any, in writing, to the Board of Directors in advance of his or her participation in the matter; and

- (c) If either the Telecommunications Development Corporation Officer, Director, and/or Employee, and/or the Executive Director or the Board Chair believes that the disclosure reasonably raises a question whether the interest is de minimis, such question shall be submitted to the Telecommunications Development Corporation's Counsel for an opinion, prior to which the officer or employee shall not participate in the matter. Failure to disclose properly or abide by the opinion of the Board shall make any participation of the officer or employee in the matter null and void.
- 13. No Telecommunications Development Corporation Officer, Director, and/or Employee may disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.
- 14. No Telecommunications Development Corporation Officer, Director, and/or Employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the Telecommunications Development Corporation for private business purposes.
- 15. No Telecommunications Development Corporation Officer, Director, and/or Employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the Telecommunications Development Corporation for private business purposes.
- 16. A Telecommunications Development Corporation Officer, Director, and/or Employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position, or influence of any party or person.

## **IMPLEMENTATION**

This Code of Ethics and Conflict of Interest Policy shall be provided to all Telecommunications Development Corporation Officers, Directors, and/or Employees upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.

- 1. The Board may designate an Ethics Officer who shall report to the board and shall have the following duties:
- 2. Counsel in confidence with the Telecommunications Development Corporation Officers, Directors, and/or Employees who seek advice about ethical behavior.
- 3. Receive and investigate complaints about possible ethics violations.
- 4. Dismiss complaints found to lack substance.
- 5. Prepare an investigative report of their findings for action by the Executive Director or the Board.



Record the receipt of gifts or gratuities of any kind received by a Telecommunications Development Corporation Officer, Director, or Employee who shall notify the Ethics Officer within forty-eight (48) hours of receipt of such gifts and gratuities.

## **PENALTIES**

In addition to any penalty contained in any other provision of the law, Directors, Officers, and/or Employees who knowingly and intentionally violate any of the provisions of this code may be removed in the manner provided for in law, rules or regulations, and the Telecommunications Development Corporation By-Laws.

## **REPORTING UNETHICAL BEHAVIOR**

Telecommunications Development Corporation Officers, Directors, and/or Employees are required to report possible unethical behavior by a Director or employee of Telecommunications Development Corporation to the Ethics Officer, if one has been appointed, or to the Board Chair, or the Board Vice Chair. Telecommunications Development Corporation Officers, Directors, and/or Employees may file ethics complaints anonymously and are protected from retaliation by the policies adopted by the Telecommunications Development Corporation.

## **ANNUAL DISCLOSURE STATEMENTS**

All Directors and Officers, as well as all Employees who hold policy-making positions, of the Telecommunications Development Corporation shall file annual financial disclosure statements in compliance with article eighteen of the General Municipal Law.

**DEPOSITORY AGREEMENT PROGRAM**

The Program consists of transactions pursuant to a Banking Agreement in which a grantor transfers real property to the Telecommunications Development Corporation, and the property is held by the Telecommunications Development Corporation pending a transfer back to the original grantor; to a grantee identified in the banking agreement; or to a third party selected by the Telecommunications Development Corporation. The Telecommunications Development Corporation Board has full discretion and authority to agree or decline to enter into a Banking Agreement.

A "Banking Agreement" is a written agreement between a Grantor and the Telecommunications Development Corporation that identifies the property, the length of the banking term, the potential Grantee, the range of permissible uses of the property following transfer by the

Telecommunications Development Corporation, the permitted encumbrances on the property, the rights and duties of the parties, the responsibility of the Grantor for the Holding Costs, the forms of the instruments of conveyance, and other matters as appropriate.

Property that is eligible for Banking Agreement must be unimproved real property. A property containing improvements that are to be demolished or removed may be eligible as long as adequate and sufficient funds are placed in escrow to assure that all improvements will be demolished and removed within 60 days of closing.

Parties eligible to be a Grantor or a Grantee are governmental entities and nonprofit housing corporations.

Unless otherwise agreed in the Banking Agreement, property shall be transferred in fee simple title. A policy of title insurance must be issued in favor of the Telecommunications Development Corporation as the insured party at the time of closing. A mortgage to secure debt may encumber the property at the time of transfer to the Telecommunications Development Corporation, provided that the obligations do not require payment of sums by the Telecommunications Development Corporation to the mortgagee. Under no circumstances will the Telecommunications Development Corporation have direct liability to a mortgagee pursuant to a security instrument.

A Banking Agreement may permit a maximum banking term of 36 months for transactions in which the Grantor is a nonprofit entity, and 60 months for transactions in which the Grantor is a governmental entity.

A Grantor may request transfer of property from the Telecommunications Development Corporation at any time during the banking term. Prior to transfer, any holding costs attributable to the property shall be paid to the Telecommunications Development Corporation. The Telecommunications Development Corporation in its sole discretion shall have the right to request that the Grantor or its designee accept a transfer of property from the Telecommunications Development Corporation. If the Grantor is unwilling or unable to accept the transfer and pay holding costs, the Telecommunications Development Corporation shall have the right to terminate the Banking Agreement and dispose of the property pursuant to Telecommunications Development Corporation policy.

All property held by the Telecommunications Development Corporation and transferred to a Grantee pursuant to a Banking Agreement shall be subject to restrictions providing that the property is to be used for the production of housing; for community improvements; or other public purposes consistent with Telecommunications Development Corporation mission and goals. Each

Banking Agreement will specify the range of permissible uses and the manner in which each restriction is secured.



## **EQUIPMENT AND PROPERTY CAPITALIZATION POLICY**

### **Overview**

Physical assets acquired with unit costs in excess of five thousand U.S. dollars (\$5,000) are capitalized as property and equipment on Allegany County Telecommunications Development Corporation's financial statements. Items with unit costs below this threshold shall be expensed in the year purchased.

Capitalized property and equipment additions are accounted for at their historical cost and all such assets, except land and certain works of art and historical treasures, are subject to depreciation over their estimated useful lives, as described later.

### **Contributed Assets**

Assets with fair market value in excess of five thousand U.S. dollars (\$5,000) (per unit) that are contributed to Allegany County Telecommunications Development Corporation shall be capitalized as fixed assets on Allegany County Telecommunications Development Corporation's financial statements. Contributed items with market values below this threshold shall be expensed in the year contributed.

Capitalized contributed assets are accounted for at their market value at the time of donation and all such assets, except land and certain works of art and historical treasures, are subject to depreciation over their estimated useful lives, as described later.

### **Equipment and Furniture Purchased with Federal Funds (2 CFR Part 200.313)**

Allegany County Telecommunications Development Corporation may occasionally purchase equipment and furniture that will be used exclusively on a program funded by a federal agency. Equipment and furniture charged to federal awards will be subject to certain additional policies as described below.

All purchases of equipment and furniture with federal funds shall be approved, in advance and in writing, by the federal awarding agency. In addition, the following policies shall apply regarding equipment purchased and charged to federal awards:

1. Adequate insurance coverage will be maintained with respect to equipment and furniture charged to federal awards.
2. For equipment (or residual inventories of supplies) with a remaining per unit fair market value of five thousand U.S. dollars (\$5,000) or less at the conclusion of the award, Allegany County Telecommunications Development Corporation shall retain the equipment without any requirement for notifying the federal awarding agency.
3. If the remaining per unit fair market value is five thousand U.S. dollars (\$5,000) or more,

Allegany County Telecommunications Development Corporation shall gain written understanding with the federal awarding agency regarding disposition of the equipment. This understanding may involve returning the equipment to the federal awarding agency, keeping the equipment and compensating the federal awarding agency, or selling the equipment and remitting the proceeds, less allowable selling costs not to exceed five hundred U.S. dollars (\$500), to the federal awarding agency. (2 CFR Part 200.313(e))

4. The Grant Manager shall determine whether a specific award with a federal agency includes additional equipment requirements or thresholds and requirements that differ from those described in this policy.

5. A physical inventory of all equipment purchased with federal funds shall be performed annually by the Audit Committee as part of Assessment of Internal Controls. The results of the physical inventory shall be reconciled to the accounting records of and federal reports filed.

#### **Establishment and Maintenance of a Property Log**

All capitalized property and equipment shall be recorded in a Property Log. This Log shall include the following information with respect to each asset: (2 CFR Part 200.313(d)(1))

- \* Date of Acquisition
- \* Purchase Price
- \* Vendor/Supplier Name
- \* Purchase Method (i.e. check, cash, credit card, etc.)
- \* Transaction Number (i.e. check number, receipt number, etc)
- \* Depreciation Method
- \* Location, use and condition
- \* Estimated useful life
- \* Description (including color, model, and serial number or other identification number)
- \* Funding Source
- \* Contract Number
- \* Ultimate disposition data, including the date of disposal and sale price

A physical inventory of all assets capitalized under the preceding policies will be taken on an annual basis by Allegany County Telecommunications Development Corporation. This physical inventory shall be reconciled to the Property Log and adjustments made as necessary. All adjustments resulting from this reconciliation will be approved by the Chairman of the Board.

#### **Receipt of Newly Purchased Equipment and Furniture**

At the time of arrival, all newly purchased equipment or furniture shall be examined for obvious physical damage. If an asset appears damaged or is not in working order, it shall be returned to the contractor immediately.

In addition, descriptions and quantities of assets per the packing slip or bill of lading shall be compared to the assets delivered. Discrepancies should be resolved with the contractor immediately.

#### **Depreciation and Useful Lives**

All capitalized assets are maintained in the special property and equipment account group and are not to be included as an operating expense. Property and equipment are depreciated over their estimated useful lives using the straight-line method.

In the year of acquisition, depreciation is recorded based on the number of months the asset is in service, counting the month of acquisition as a full month (Example: an asset purchased on the 15th day of the 5th month shall have 8 full months of depreciation [eight-twelfths of one year]) recorded for that year.

Estimated useful lives of capitalized assets shall be determined by the Finance Department in conjunction with the Department or employee that shall utilize the asset. The following is a list of the estimated useful lives of each category of fixed asset for depreciation purposes:

- \* Furniture, and fixtures           Up to 10 years
- \* General office equipment       5 years
- \* Computer hardware and peripherals  
(which exceed the capitalization threshold)   3 to 5 years
- \* Computer software   2 to 3 years

- \* Leased assets Life of lease
- \* Leasehold Improvements      Remaining lease term

For accounting and interim financial reporting purposes, depreciation expense will be recorded on a monthly basis.

### **Changes in Estimated Useful Lives**

If it becomes apparent that the useful live of a particular capitalized asset will be less than the life originally established, an adjustment to the estimated useful life shall be made. All such changes in estimated useful lives of capitalized assets must be approved by the Chairman of the Board.

When a change in estimated useful life is made, the new life is used for purposes of calculating annual depreciation expense. In the year in which the change in estimate is made, the cumulative effect of the change shall be reflected as depreciation expense in Allegany County

Telecommunications Development Corporation's Statement of Activities. For example, if in the fourth (4th) year of an asset's life it is determined that the asset will last five (5) years instead of the original estimate of seven (7) years, depreciation expense for the year shall be equal to the difference between four-fifths (4/5) of the asset's basis (accumulated depreciation at the end of year four), and three-sevenths (3/7) of the asset's basis (accumulated depreciation at the beginning of the year).

### **Repairs of Property and Equipment**

Expenditures to repair capitalized assets shall be expensed as incurred if the repairs do not materially add to the value of the property or materially prolong the estimated life of the property.

Expenditures to repair capitalized assets shall be capitalized if the repairs increase the value of the property, prolong its estimated useful life, or adapt it to a new or different use. Such capitalized repair costs shall be depreciated over the remaining useful life of the property. If the repairs significantly extend the estimated useful life of the property, the original cost of the property shall also be depreciated over its new, extended useful life.

### **Dispositions of Property and Equipment**

In the event that a non-expendable asset is sold, scrapped, donated or stolen, adjustments need to be made to the Property Log. If money is received for the asset, then the difference between the money received and the "book value" (purchase price less depreciation) of the asset will be recorded as a loss if the money received is less than the book value, and a gain if the money received is more than the book value.

### **Write-Offs of Property and Equipment**

The Chairman of the Board approves the disposal of all capitalized fixed assets that may be worn out or obsolete. Property that is discovered to be missing or stolen will be reported to the Chairman of the Board. If not located, this property will be written off the books with the proper notation specifying the reason.

## **INTERNAL CONTROL AND FINANCE POLICY**

### **1. PURPOSE AND AUTHORITY.**

This policy outlines the process by which Allegany County Telecommunications Development Corporation will safeguard the assets; check the accuracy and reliability of its accounting data, methods and financial reporting; promote the effectiveness and efficiency of its financial operations; ensure compliance with section 2931 of the New York State Public Authority law and internal control standards; and adherence to all policies.

### **2. INTERNAL CONTROL OFFICER.**

The chairperson of the Board of Directors is designated the "Internal Control Officer" and shall work with the Finance, Audit and Governance Committees of the Telecommunications Development Corporation to review this policy annually as required by law, evaluate the ongoing internal control system, and assess and monitor the implementation of any corrective actions. Collectively, the chairperson of the Board of Directors and the Finance and Audit Committees shall produce an annual internal control assessment that will be included in the Annual report of the Telecommunications Development Corporation as required by the Public Authorities law.

### **3. DEFINITIONS.**

- A. "Expense Originator" shall mean the director/employee/administrator who originates payment authorization, and has personal knowledge of the vendor, requested payment and documentation to substantiate the expense.
- B. "Authorized Check Signatory and Endorser" shall mean those employees and/or directors authorized by the board of directors to sign checks. The Allegany County Telecommunications Development Corporation authorized check signatories are the Treasurer and a second signatory, appointed by a resolution of the Board of Directors.
- C. "Payment Authorization Signatory and Endorser" shall mean those employees and/or directors authorized by the board of directors to approve payment vouchers. The Allegany County Telecommunications Development Corporation Payment authorization signatories are the Chairperson, the Treasurer, and second signatory, appointed by a resolution of the Board of Directors.

## **4. FINANCIAL PROCEDURES AND DUTIES**

### **A. EXPENSES**

- A. **Payment Authorization.** Invoices are reviewed by the Expense Originator who has direct knowledge of the purpose of the expense, the vendor and can verify the amount to be paid. The payment authorization voucher shall include details of the vendor, product or service and the amount to be paid. Invoices or other appropriate documentation shall be provided upon request. The Expense Originator then signs and submits an expense payment voucher to be approved by an Authorized Payment Signatory, pursuant to the following thresholds: Payment vouchers for \$1,000 or less: If the Expense Originator is a contractor or employee, the expense voucher must be approved by the Chairperson or Treasurer. If the Expense Originator is the Chairperson or Treasurer, the expense must be approved by a vote of the board of directors. Payments shall be issued by an Authorized Check Signatory. Payment vouchers in excess of \$1,000: If the Expense Originator is a contractor or employee, the expense voucher must be approved by a vote of the board of directors. Payments shall be issued by an Authorized Check Signatory.
- B. **Employee and Board member personal expenses.** Employees and Board members may be reimbursed for expenses incurred that directly relate to carrying out the business of

the Telecommunications Development Corporation. All Employee and Board member expenses must be pre-approved by a Payment Authorization Signatory. Reimbursement checks made payable to an Employee other than the Executive Director may be signed by the Chairperson. If the reimbursement is to be made to the Chairperson, an Authorized Check Signatory must sign and approve the check reimbursement. If the reimbursement check is to be made payable to a Board Member, the Chairperson may be the Authorized Check Signatory.

- C. **Purchasing.** The Board Chairman may approve individual purchases to be made by the Telecommunications Development Corporation for day-to-day operations (office supplies, computers, furniture etc.) at his/her sole discretion in accordance with the ACLBC Procurement Policy.

## **B. INCOME**

- A. **Deposits.** All deposits of purchase monies, donations, and closing costs must be reviewed by a Payment Authorization Signatory. A contractor, or employee, other than the Executive Director or Chairperson shall make said deposits upon the review and approval of an Authorized Payment Signatory.
- B. **Routine Cash Management.** Internal transfers between accounts for routine case management may be approved and processed by an Authorized Payment Signatory and processed by an Authorized Check Signatory.

## **C. RECONCILIATION AND REVIEW**

Bank Statements shall be reviewed by management and shall be submitted to the designated bookkeeper or accountant for reconciliation on a monthly basis. Final statements and reports shall be forwarded to the Treasurer for review at monthly meetings. The Chairperson, Treasurer and management shall have online access to the accounting software to review and monitor transaction activity at any time.

## **D. ANNUAL REVIEW**

This policy shall be reviewed annually and the Audit committee shall be responsible for establishing and maintaining for the Telecommunications Development Corporation a system of internal control and a program of internal control review.

The program of internal review shall be designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the Telecommunications Development Corporation's ongoing internal controls.

The Audit Committee shall also make available to each member, officer and employee a clear and concise statement of the generally applicable managerial policies and standards with which he or she is expected to comply. Such statement shall emphasize the importance of effective internal control to the authority and the responsibility of each member, officer and employee for effective internal control.

The Audit Committee shall implement education and training efforts to ensure that members, officers and employees have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques.



## **PROCUREMENT POLICY**

THE POLICIES DESCRIBED BELOW APPLY TO ANY PURCHASE(S) MADE BY THE ALLEGANY COUNTY TELECOMMUNICATIONS DEVELOPMENT CORPORATION ("ACTDC" AND/OR "TELECOMMUNICATIONS DEVELOPMENT CORPORATION")

Additional requirements applicable solely to those purchases made under government awards, if any, are described in the "Procurements Under Awards" section below.

### **Overview**

It shall be a strict Telecommunications Development Corporation requirement to follow a practice of responsible, reasonable, and ethical policies and procedures related to purchasing, agreements, and contracts, and related forms of commitment (the "Purchasing Policy"). The Purchasing Policies describe the principles, practices, and procedures to which all Telecommunications Development Corporation staff, whether Officer(s), Director(s), Employee(s), and/or Agent(s), shall adhere in the completion of their designated responsibilities and shall be bound by the terms and conditions of the Purchasing Policy in connection with the procurement and acquisition of any goods, services, and/or equipment by the Telecommunications Development Corporation.

### **Purchasing Responsibility**

Only those individuals identified herein and/or duly designated by resolution of the ACTDC Board of Directors shall possess the authority to initiate purchases on behalf of the Telecommunications Development Corporation, and only within the boundaries described herein. The ACTDC Board of Directors shall state in writing any individual(s) who may initiate purchases or prepare purchase orders before any such individual(s) shall possess such authority.

A Telecommunications Development Corporation representative designated by the Board Chairman shall be responsible for processing all Telecommunications Development Corporation purchase orders consistent with this Purchasing Policy the ACTDC Chairman shall possess approval authority over all purchases and contractual commitments as defined by the Purchasing Policy, except those transactions exempted herein. The ACTDC Board of Directors shall deliberate as soon as practicable to make the final determination on any proposed purchase(s) for which budgetary and/or any other material condition(s) may result in denial of the transaction(s), if such a deliberation is requested by the ACTDC Chairman

### **Non-Discrimination**

All vendors/contractors who are the recipients of ACTDC funds, or who propose to perform any work or furnish any goods under agreements with the Telecommunications Development Corporation shall agree to these important principles:

1. Vendors/contractors will not discriminate against any employee and/or applicant for employment because of race, religion, color, sexual orientation, and/or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the vendors/contractors.
2. Vendors/contractors agree to post in conspicuous places, available to employees and/or applicants for employment, notices setting forth the provisions of this non-discrimination clause. Notices, advertisements, and/or solicitations placed in accordance with Federal law, rule, and/or regulation shall be deemed sufficient for meeting the intent of this section.

## **Purchase Authorization**

Requisition and purchasing shall be in accordance with the Telecommunications Development Corporation's Internal Controls and Finance Policy to ensure compliance with section 2931 of the New York State Public Authority law.

## **Authorizations and Purchasing Limit**

Purchase(s) less than \$1,000. Any completed Purchase Order(s) must be signed and dated by the preparer and approved by the Telecommunications Development Corporation Chairman or Vice-Chairman, no matter the amount, before it is deemed effective. The Telecommunications Development Corporation Chairman or Vice-Chairman is authorized to enter into any contract(s) on behalf of the Telecommunications Development Corporation in any amount(s) less than \$1,000.00.

Open purchase orders. Open purchase orders can be requested for routine purchases totaling under \$500. Open purchase orders may be kept on file with local merchants to assist in the procurement of everyday items. The open purchase order will not be used for items costing over \$500. A separate Purchase Order must be made for those items costing more than \$500 with prior approval obtained consistent with the Purchasing Policy.

Purchase(s) more than \$1,000. Any contract(s) in an amount exceeding \$1,000.00 must be reviewed and approved by the Telecommunications Development Corporation counsel, Director, and a majority vote by the Telecommunications Development Corporation Board. These requirements shall also apply to the renewal(s) of any existing contract(s).

Emergency Purchases. The only instances in which this policy will not apply is in emergency situations where immediate procurement may be necessary to prevent delays in critical agency activities or such delays may vitally affect the life, safety, or health of individuals served. The process for emergency purchases requires a written purchase request be completed to begin procurement.

**Purchase(s) requiring bids.** Any Telecommunications Development Corporation purchase(s) of goods, services, and/or equipment which will exceed \$20,000 in one fiscal year, and any contract(s) for any time interval exceeding \$35,000 shall be formally bid using Section 103 of the New York General Municipal Law for parameters. Subject to the requirements herein, the following provisions shall be observed in connection with Telecommunications Development Corporation purchases:

1. Any purchase(s) of good(s), service(s), and/or equipment estimated to cost:
  - a. Less than \$20,000 but greater than \$3,000 shall require written/fax quotes from 3 vendors;
  - b. Less than \$3,000 but greater than \$1,000 requires oral/fax quotes from 2 vendors;
  - c. Less than \$1,000 is left to the discretion of the Purchaser, subject to the requirements of this policy.
2. Any construction and/or demolition contract(s) in an estimated amount of:
  - a. Less than \$35,000 but greater than \$10,000 shall require a written request for proposals and written/fax proposals from not less than three (3) qualified contractors;
  - b. Less than \$10,000 but greater than \$500 shall require a written request for proposals and written/fax proposals from two (2) qualified contractors;
  - c. Less than \$500 is left to the discretion of the Purchaser.
3. Any written request for a proposal shall describe the desired purchase(s) and/or service(s) sought. The ACTDC shall compile a list of any qualified contractor(s) and/or vendor(s) from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered. All information gathered in complying with the procedures of this policy shall be preserved

- and filed with the documentation supporting any subsequent purchase(s) and/or contract(s).
4. The lowest responsible proposal or quote shall be awarded the purchase(s) and/or contract(s) unless the ACTDC Director prepares a written justification providing reasons why it is in the best interest of the Telecommunications Development Corporation and its constituents to make award the contract to one other than the contractor or vendor who submitted the lowest bid. For the purposes of the Purchasing Policy, “responsible” shall mean one whose business and financial capabilities, past performance, and reputation support that the bidder is fully capable and qualified to perform the work, and/or provide the goods and/or services sought. If any contractor(s) and/or vendor(s) is/are not deemed responsible, facts supporting that determination shall also be documented and filed with the record supporting the relevant procurement(s).
  5. A good faith and duly diligent effort shall be expended to obtain the required number of proposals or quotations, pursuant to the Purchasing Policy. If the required number of proposals or quotations cannot be obtained following a duly diligent effort undertaken in good faith, the ACTDC Director shall document the effort undertaken to obtain such proposals or quotations. Under no circumstances shall the inability by the Telecommunications Development Corporation to obtain any number of proposal(s) or quote(s), by itself, function as a bar to a particular purchase or procurement, provided the requirements herein have been satisfied.
  6. Except when directed by the Board of Directors, no solicitation of written proposals or quotations shall be required for the following types of procurements or circumstances:
    - a. Acquisition of professional services;
    - b. Emergencies in which time is a crucial factor;
    - c. Sole-source situations;
    - d. Goods purchased from agencies for the blind or severely handicapped;
    - e. Goods purchased from correctional facilities;
    - f. Goods purchased from another governmental entity;
    - g. Goods purchased at auction; and
    - h. Goods or services purchased for less than \$500.

### **Affirmative Consideration of Minority, Small Business, and Women-Owned Businesses**

Whenever and to the fullest extent reasonably possible, positive efforts shall be made by the Telecommunications Development Corporation to utilize local small businesses, minority-owned firms, and women’s business enterprises. The following steps shall be taken in furtherance of this goal:

1. Ensure that small business, minority-owned firms, and women’s business enterprises are used to the fullest extent practicable.
2. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small local business, minority-owned firms and women’s business enterprises.
3. Consider in the contracting process whether firms competing for larger contracts tend to subcontract with small local businesses, minority-owned firms and women’s business enterprises.
4. Encourage contracting with consortiums of small local businesses, minority owned firms and women’s business enterprises when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance, as appropriate, of such agency as the Small Business Administration and the Department of Commerce’s Minority Business Development Agency in the minority-owned firms and women’s business enterprises.

**Right to Audit**

It shall be strict Telecommunications Development Corporation policy to require a “Right to Audit” clause in any contract(s) between the Telecommunications Development Corporation and any vendor(s) that either; 1) take any form of temporary possession of any asset(s) directed for the Telecommunications Development Corporation, or 2) process data that will be used in any financial function of the Telecommunications Development Corporation. This Right to Audit clause shall permit access to and review of all documentation and processes relating to the vendor’s operations that apply to the Telecommunications Development Corporation as well as all documents maintained or processed on behalf of the Telecommunications Development Corporation for a period of three years. The clause shall state that any such audit procedures may be performed by Telecommunications Development Corporation designee and/or any outside auditor(s) and/or contractor(s), as designated by the Telecommunications Development Corporation, solely in its discretion.

**Vendor / subcontractor Files and Required Documentation**

The Telecommunications Development Corporation designee who functions as the ACTDC Accounts Payable Specialist shall create a vendor folder for each new vendor / subcontractor from whom the Telecommunications Development Corporation purchases goods or services. Upon making the initial purchase from any vendor(s) (regardless of whether a contract is involved), the ACTDC Accounts Payable Specialist will request a completed and signed Form W-9 from that vendor, or provide equivalent, substitute information. Completed, signed Forms W-9 or substitute documentation shall be filed. Any vendor(s) who fail(s) to return a completed, signed Form W-9 or provide equivalent documentation shall be issued a Form 1099 at the end of each calendar year in accordance with the policies of the Telecommunications Development Corporation.

**Ethical Conduct in Purchasing**

Ethical conduct in managing all Telecommunications Development Corporation purchasing activity is essential. ACTDC personnel must always be mindful that they represent the ACTDC Board of Directors and share a professional trust with other staff and the public.

ACTDC personnel shall discourage the offer of, and decline, individual gifts, or gratuities of value in any way that might influence the purchase of supplies, equipment, and/or services. ACTDC personnel shall promptly notify a supervisor if offered such gifts.

**Conflicts of Interest Prohibited**

No Officer, Director, Employee, contractor, and/or Agent of the Telecommunications Development Corporation shall participate in the selection or administration of a vendor if a real or apparent conflict of interest would be involved. Such a conflict would arise if an Officer, Director, Employee, and/or Agent of the Telecommunications Development Corporation, or any member of his/her immediate family, his/her spouse/partner, or any entity(ies) that employ(s) or is about to employ any of the parties indicated herein, has a financial, and/or any other interest(s) in the vendor selected.

Officers, board members, employees and agents of the Telecommunications Development Corporation shall neither solicit nor accept gratuities, favors, or anything of monetary value from vendors or parties to sub-agreements. However, unsolicited gifts of a nominal value of \$25.00 or less may be accepted with the approval of the Telecommunications Development Corporation Director.

**Procurements Under Awards**

Procurement of goods and services whose costs are charged to any award(s) received by the Telecommunications Development Corporation are subject to all requirements of the Purchasing Policy, as described hereinabove, as well as the following supplemental policies:

1. The Telecommunications Development Corporation shall avoid purchases that are not necessary for the performance of the activity (ies) required by any award(s).
2. Where appropriate, an analysis shall be made of any available lease and purchase alternative(s) to identify the most economical and practical procurement for the government.
3. Documentation of the cost and price analysis associated with each procurement decision shall be retained in the procurement files pertaining to any award(s).
4. For all procurements in excess of the Federal “small purchase acquisition threshold” (and/or such amount(s) established by State law, if any) procurement records and files shall be maintained the include all of the following:
  - a. The basis for contractor selection;
  - b. Justification for lack of competition when competitive bids or offers are not obtained; and
  - c. The basis for award cost or price.
5. The Telecommunications Development Corporation shall make all procurement files available for inspection upon request by any Awarding Agency (ies).
6. All contracts with vendors shall require the vendor to certify in writing that it has not been suspended or disbarred from doing business with any Federal agency (ies).

No ACTDC Officer, Employee, contractor and/or Agent shall participate in the selection, award, or administration of a contract supported by grant funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the Officer, Director, Employee, and/or Agent, and/or any member of her or his immediate family, his or her partner, or an Agency which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

### **Receipt and Acceptance of Goods**

All departments or designated individual shall inspect all goods received. Upon receipt of any item from a vendor, the following actions shall immediately be taken:

1. Verify the quantity of boxes/containers with the packing slip.
2. Examine boxes/containers for exterior damage.
3. Note on the packing slip any discrepancies (missing or damaged boxes/containers, etc.).
4. Sign and date the packing slip and deliver to the treasurer
5. Retain a copy of the packing slip and send original to financial official immediately

When goods are moved to another area for thorough inspection, the following inspection procedures shall be performed by Chairman appointed Board member and/or a Telecommunications Development Corporation Board of Director’s sub-committee

1. Remove any packing slip(s) from each box/container.
2. Compare the description and quantity of goods per the Purchase Order with that of the packing slip.
3. Examine goods for physical damage.
4. Count and/or weigh items, as appropriate.
5. Record an indication of counts on the Purchase Order.

It is the policy of the Telecommunications Development Corporation to perform by Chairman appointed Board member and/or a Telecommunications Development Corporation Board of Director’s sub-committee the preceding inspection procedures promptly to facilitate the timely return of goods and/or communication with vendors when necessary.

**Real Property Contracts**

Prior to execution of any contract(s) for any interest(s) in real property, the Telecommunications Development Corporation shall first obtain ACTDC Director's approval of any such contract(s).

Upon ACTDC Director's approval, the prospective contract(s) shall then be referred to the Telecommunications Development Corporation counsel for review and approval. Upon approval of the Telecommunications Development Corporation counsel, the proposed contract(s) shall then be referred to the ACTDC Board of Directors for approval and resolution.



## **SEXUAL HARASSMENT POLICY**

### **Overview**

Allegany County Telecommunications Development Corporation is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of Allegany County Telecommunications Development Corporation's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with Allegany County Telecommunications Development Corporation. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws.

### **Policy:**

- A. Allegany County Telecommunications Development Corporation's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with Allegany County Telecommunications Development Corporation. In the remainder of this document, the term "employees" refers to this collective group.
- B. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
- C. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Allegany County Telecommunications Development Corporation will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of Allegany County Telecommunications Development Corporation who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or Human Resources. All employees, paid or unpaid interns, or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums as explained below in the section on Legal Protections.
- D. While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.
- E. A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair,

cleaning services or any other services provided pursuant to a contract with the employer.

- F. Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.
- G. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject Allegany County Telecommunications Development Corporation to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
- H. Allegany County Telecommunications Development Corporation will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Allegany County Telecommunications Development Corporation will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
- I. All employees are encouraged to report any harassment or behaviors that violate this policy. Allegany County Telecommunications Development Corporation will provide all employees a complaint form for employees to report harassment and file complaints.
- J. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to Human Resources.
- K. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.



A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

#### Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name-calling.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### **Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### **Reporting Sexual Harassment**

Preventing sexual harassment is everyone’s responsibility. Allegany County Telecommunications Development Corporation cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or Human Resources. Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to Human Resources.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

### **Complaint and Investigation of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Allegany County Telecommunications Development Corporation] will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, Human Resources will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and

- The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections And External Remedies**

Sexual harassment is not only prohibited by Allegany County Telecommunications Development Corporation but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Allegany County Telecommunications Development Corporation employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Allegany County Telecommunications Development Corporation does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

**WHISTLEBLOWERS AND PROTECTION FROM RETALIATION POLICY****Definitions of Protected Activity**

Employees who engage in activities protected by anti-discrimination laws, including Title VII of the 1964 Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Equal Pay Act, and all other state anti-discrimination statutes are protected from retaliation. This activity includes employees who reasonably communicate the belief that the agency's practice constitutes unlawful employment discrimination; an employee who refuses to obey an order based on reasonable and good faith belief that the practice is unlawful; an employee who files an administrative charge with the Equal Opportunity Employment Commission or analogous state agency; or an employee who testifies, assists or participates in any other way in an investigation, proceeding, hearing or litigation brought under an anti-discrimination law.

A Whistleblower, defined as an employee who reports an activity that he or she believes is illegal or dishonest in violation of federal, state or local laws and/or agency policy; billing for services not performed or for goods not delivered and other fraudulent financial reporting, is also protected from retaliation under this policy.

**Definitions of Retaliation**

Allegany County Telecommunications Development Corporation (ACLBC) is committed to protecting all employees' access to their rights without fear of retaliation. Retaliation may include a negative employment action such as a demotion, termination, threat, reprimand, harassment or other adverse treatment that is brought against the employee for engaging in any protected activity.

**Complaint Procedures**

Employees are encouraged to report concerns regarding discrimination, retaliation, harassment or any activity that the employee reasonably and in good faith feels to be illegal or dishonest to the attention of management staff as soon as possible. Complaints may be written or verbal and should be made to the Telecommunications Development Corporation Board Chairman. If the employee does not feel comfortable going to the Board Chairman, then the complaint should be taken to the Audit Committee Chairman. There is no time limit for making a complaint, but every effort should be made to initiate the complaint as soon as possible while facts and potential testimony of witnesses are fresh.

**Investigation**

All complaints will be investigated in an impartial manner as soon as possible, but will commence no later than within ten (10) working days of when the complaint was made. Confidentiality of the person filing the complaint will be protected as much as possible. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, or to provide accused individuals with their legal rights of defense.

**Resolution**

The Telecommunications Development Corporation will take immediate and appropriate remedial action that is necessary to end the alleged discrimination, harassment or retaliatory activity, including discipline. Any employee determined to have engaged in such behavior will be subject to disciplinary action, up to and including termination from employment. To the extent possible, employees who file a complaint of harassment, retaliation, discrimination or activities that fall under the Whistleblower definitions will be informed of the outcome of the investigation.

**Distribution of Policy**

A copy of this policy is required to be, and shall be, distributed to all directors, officers, employees and to volunteers who provide substantial services to the corporation.