

TOWN OF BIG FLATS AGENDA
WEDNESDAY, OCTOBER 22, 2014 AT 7:00 P.M.

TOWN BOARD

CALL TO ORDER

PRESENTATION: Eagle Scout Project Proposal - Mills Cemetery, by Alec Cuttler

PUBLIC HEARING: 7:00 P.M. Franchise Agreement with Empire the
Community Cable
Corporation

PUBLIC HEARING: 7:02 P.M. Franchise Agreement with Empire Video
Service

CONCERNS OF THE PEOPLE

MINUTES – September 24, 2014, Sept. 29, 2014sp, Sept 30, 2014sp, October 2,
2014sp, October 6, 2014sp and October 8, 2014.

UNFINISHED BUSINESS

Amendment Highway Law Section 284 Agreement
Amend Recognition of Registro Way and Community Park Drive
Franchise Agreement with Empire Video Service Corp. & Community Cable Corp. d/b/a
North

Penn Video

NEW BUSINESS

Budget Transfers

Abstract of Audited Vouchers

Lease with Empire Access Corp.

Special Meeting

Public Hearing Preliminary Budget/ Appointed and Elected Official Salaries

Property Maintenance charges for 2013 & 2014

Public Hearing/ 2015 proposed Fire Protection District No. 1

Communication Log

WATER BOARD

CALL TO ORDER

NEW BUSINESS

Delinquent Water Customers

PROPOSED RESOLUTION NO. 01-102214
A RESOLUTION TO AMEND THE HIGHWAY LAW SECTION 284 AGREEMENT

Resolution by:
Seconded by:

WHEREAS in accordance with Highway Law, Section 284, the Town Supervisor, Town Board, and Commissioner of Public Works are required to enter into an agreement regarding moneys levied and collected in the Town for repair and improvement of highways, and

WHEREAS the Town Board wishes to approve additional road improvements, and

WHEREAS the 2014 Section 284 Agreement needs to be amended to reflect additional projects for road improvements, and

WHEREAS we are currently projecting a minimum surplus of \$139,000, and

WHEREAS with the Board's permission, we would like to modify the agreement as follows:

Delete:

Garden Lane (Distance of 0.18 miles)
Top with Oil and Stone.
Deduct: **\$3,467** in planned costs.

Add:

Lederer Lane, Garden Lane, Brookwood Hills, Milton Lane (Total distance of 0.76 miles)
Apply tack coat and overlay with 1.5-in of Type 7F top.
Add: **\$80,202** in new costs.

TOTAL PROPOSED COSTS of roads added to 284 Agreement: \$76,735

WHEREAS for environmental review, repaving of existing highways is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (4) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED, in accordance with Highway Law, Section 284, the Town Supervisor, Town Board and Commissioner of Public Works are authorized to amend the 2014 Highway Law Section 284 Agreement for the Expenditure of Highway money for Lederer Lane, Garden Lane, Brookwood Hills, Milton Lane (Total distance of 0.76 miles) without change to the original sum of \$1,226,881.81.

CARRIED: AYES:
 NAYS:

PROPOSED RESOLUTION NO. 02-102214
A RESOLUTION TO AMEND RESOLUTION NO.242-14,
RECOGNITION OF REGISTRO WAY AND COMMUNITY PARK DRIVE AS PUBLICLY
TRAVELED ROADS AND REQUEST THAT THEY BE ADDED TO THE 2015 NEW YORK
STATE LOCAL HIGHWAY INVENTORY (LHI)

Resolution by:

Seconded by:

WHEREAS the Federal Highway Administration requires an Annual Certification of Local Highway Mileage, and

WHEREAS the New York State Department of Transportation has sent out the instructions for completing the Annual Certification, and

WHEREAS the addition of roads to the Town's inventory must be indicated on the Annual Certification and accompanied by the required resolutions, and

WHEREAS the Commissioner and Deputy Commissioner of Public Works have recommended the recognition of Registro Way and Community Park Drive as publicly traveled roads, and

WHEREAS the Commissioner and Deputy Commissioner recommend that Registro Way and Community Park Drive be added to the New York State Department of Transportation Local Highway Inventory (LHI), and

WHEREAS Registro Way is 1,428 feet in length by 21 feet wide, and

WHEREAS Community Park Drive is 1341 feet in length by 16 feet wide from Main Street (CR64) to Pavillion Drive, and 236 feet in length by 21 feet wide from Pavillion Drive to River Street, and

WHEREAS the recognition and addition of these roads is an administrative Type II action under SEQRA 6 NYCRR 617.5 (c) (20) and thus no environmental review action is required, now

BE IT THEREFORE RESOLVED the Town Board, as recommended by the Commissioner and Deputy Commissioner of Public Works, hereby recognize Registro Way and Community Park Drive as publicly traveled roads, and

BE IT FURTHER RESOLVED the Town Board authorizes the addition of Registro Way totaling 1,428 feet in length by 21 feet wide, and Community Park Drive totaling 1341 feet in length by 16 feet wide from Main Street (CR64) to Pavillion Drive, and 236 feet in length by 21 feet wide from Pavillion Drive to River Street, to the New York State Department of Transportation Local Highway Inventory (LHI).

CARRIED: AYES:
NAYS:

PROPOSED RESOLUTION NO. 03-102214

A RESOLUTION FOR APPROVAL OF FRANCHISE AGREEMENTS FOR FIBER OPTIC VIDEO CABLE WITH EMPIRE VIDEO SERVICE CORPORATION AND FRANCHISE AGREEMENT WITH COMMUNITY CABLE CORPORATION D/B/A NORTH PENN VIDEO

Resolution by:

Seconded by:

WHEREAS Empire Video Service Corporation and Community Cable Corporation d/b/a North Penn Video are desirous of entering into franchise agreements with the Town of Big Flats for the provision of fiber optic video services to the Town of Big Flats, and

WHEREAS the fiber optic services by both corporate entities shall also include the provision of security, internet and phone services to the Town of Big Flats and its residents at greatly increased speeds and savings of costs to the Town and its residents, and

WHEREAS two separate agreements are necessary in order to provide the maximum amount of video services and channels, and

WHEREAS franchise agreements have been negotiated between the Town of Big Flats and Empire Video Service Corporation and Community Cable Corporation d/b/a North Penn Video, copies of which are below, and

AND WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6 NYCRR, Part 617.5(c) (25) and as such no further action is necessary regarding the same, now

THEREFORE, the following resolutions are hereby adopted:

RESOLVED, that the Franchise Agreements are approved, and to that end the Town's Supervisor is hereby authorized, in the name and on behalf of the Town, to (i) execute and deliver, in the name and on behalf of the Town, the Franchise Agreements, (ii) take all such other actions (with the advice of counsel) as may be required to institute the cable television franchise contemplated by the Franchise Agreement, including without limitation, further negotiation and preparation of the Franchise Agreement and the execution and delivery of any necessary agreements, amendments, supplements, extensions, certificates, notes and other documents and instruments, all in form and substance as may be approved by the Town's Supervisor (his signature thereon being conclusive evidence of such approval), and (iii) take such further actions as the Town's Supervisor may deem necessary or advisable and appropriate to consummate the transactions hereby approved and otherwise to carry out the purpose and intent of these resolutions.

RESOLVED, that all actions taken by the Town's Supervisor to date in connection with the Franchise Agreement are hereby ratified and affirmed in all respects, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor to sign the franchise agreement with Empire Video Service Corporation and the franchise agreement with Community Cable Corporation d/b/a North Penn Video copies of which are attached.

CARRIED: AYES:
NAYS:

CABLE TELEVISION FRANCHISE AGREEMENT

TOWN OF BIG FLATS

THIS AGREEMENT, executed this ____ day of _____, 2014, by and between the TOWN OF BIG FLATS (hereafter referred to as the Municipality) by the Supervisor acting in accordance with the authority of the duly empowered local governing body, (hereinafter referred to as the Board) and **EMPIRE VIDEO SERVICE CORPORATION**, a corporation, organized and existing under the laws of the State of New York, with an office address of 34 Main St., Prattsburgh, NY 14873 (hereinafter referred to as "Empire Video").

WITNESSETH

WHEREAS, pursuant to the laws of the Municipality, the Board has the exclusive power on behalf of the Municipality to grant franchises providing for or involving the use of the Streets (as defined in Section I hereof) and to give the consent of the Municipality to any franchisee for or relating to the occupation of the Streets; and

WHEREAS, pursuant to the Communications Act of 1934, as amended, (the "Communications Act") the Board has the authority to grant cable television franchises and renewals thereof on behalf of the Municipality and whereas the Board and Empire Video pursuant to said Federal Law and pursuant to applicable State laws and the regulations promulgated thereunder, have complied with the franchise procedures required of Municipalities and cable operators in the grant of cable television franchises or their renewal; and

WHEREAS, the Municipality has conducted negotiations with Empire Video and has conducted one or more public hearings on Empire Video's franchise proposal affording all interested parties due process including notice and the opportunity to be heard; said deliberations included consideration and approval of Empire Video's technical ability, financial condition and character; said public hearing also included consideration and approval of Empire Video's plans for constructing and operating the cable television system; and

WHEREAS, following such public hearings and such further opportunity for review, negotiations and other actions as the Board deemed necessary and that is required by law. The Board decided to grant Empire Video's franchise as provided hereinafter: and

WHEREAS, in granting the Franchise (as defined in Section 1 hereof), the Board embodied in this Agreement the results of its review and any negotiations with Empire Video and has determined that this Agreement and Empire Video respectively, fulfills and will fulfill the needs of the Municipality with respect to cable television service and complies with the standards and requirements of the NYSPSC (as defined in Section 1).

NOW, THEREFORE, In consideration of the foregoing clauses, which clauses are hereby made a part of this franchise agreement, and the mutual covenants and agreements herein contained, the parties hereby covenant and agree:

SECTION 1 - DEFINED TERMS

Unless the context clearly indicates that a different meaning is intended:

- (a) "Agreement" has the meaning set forth in the introductory paragraph hereof.
- (b) "Basic Service" means any service tier which includes the retransmission of local broadcast signals.
- (c) "Board" means the Town Board of the Municipality.
- (d) "Cable Television Service" means
 - (1) The one way transmission to Subscribers of Video Programming, High Speed Internet and Voice Services Programming
 - (2) Subscriber interaction, if any, which is required for the selection or use of such Video Programming, or other programming service, and
 - (3) Video programming and other transmissions that are received by subscribers via the "Cable Television System" defined below
 - (4) Video programming and other transmissions that are received by the subscribers via the "Cable Television System" defined below.
- (e) "Cable Television System" means a facility, consisting of a set of transmission paths including (without limitation) fiber optic wires or lines, and associated signal generation, reception and control equipment that provides Cable Television Service and other lawful services via electrical and electronic signals to subscribers and/or customers. And other lawful services via electrical and electronic signals to subscribers and/or customers.
- (f) "Empire Video" means Empire Video Services Corporation.

(g) "Effective Date" of this agreement shall be from the date as specified in the Commission's Order Approving Renewal from the date as specified in the Commission's Order Approving Renewal.

(g) "Franchise" means the grant or authority given hereunder to Empire Video to construct and operate a Cable Television System in the Municipality in accordance with the terms hereof.

(h) "FCC" means the Federal Communications Commission, its designees and any successor hereto.

(i) "Gross Revenues" shall mean all compensation received by the Cable Company, directly or indirectly, from subscribers, advertisers or other users of the Cable Television System in connection with the operation of the Cable Television System, in accordance with the FCC and PSC rules, all recurring monthly revenue as well as installation, pay per view, home shopping and advertising revenues, and any other monies on which cable franchise fees can be imposed consistent with federal and state laws and regulations, but not including late fees.

(j) "May" is permissive.

(k) "Municipality" means the Municipality. Wherever the context shall permit, Board, Council and Municipality shall be used interchangeably and shall have the same meaning under this Franchise.

(l) "NYS PSC" means New York State Public Service Commission.

(m) "Person" means an individual, partnership, association, corporation, joint stock company trust, corporation, or organization of any kind.

(n) "PPV" means non-recurring revenue generated by specific programming purchases by customers.

(o) "Service Tier" means a category of Cable Television Service provided by Empire Video over the Cable Television System for which a separate rate is charged for such category by Empire Video

(p) "Shall" or "will" are mandatory.

(q) "Streets" means the surface of, as well as the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks and public grounds and waters within or belonging to the Municipality .

(r) "Subscriber" means any person lawfully receiving any Cable Television Service in the Municipality provided over the Cable Television System.

(s) "Video Programming" means any and all programming services provided by, or generally considered comparable to programming provided by a television broadcast station.

SECTION 2 -CONSENT TO FRANCHISE AND CONDITION PRECEDENT

(a) The Municipality hereby grants to Empire Video the non-exclusive right to construct, erect, operate and maintain a Cable Television System and to provide Cable Television Service within the Municipality as it now exists and may hereafter be changed, and in so doing to use the Streets of the Municipality by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, over, upon and across any and all said Streets such facilities (e.g., poles, wires, cables, conductors, ducts, conduits, vaults, pedestals, manholes, amplifiers, appliances, attachments and other property) as is deemed necessary or useful by Empire Video, for the operation of its cable system. Additionally, the Municipality, insofar as it may have the authority to so grant, hereby authorizes Empire Video to use any and all easements dedicated to compatible uses, such as electric, gas, telephone or other utility transmissions, for the purposes of the operation of its cable system. Upon request by Empire Video and at Empire Video's sole expense, the Municipality hereby agrees to assist Empire Video in gaining access to and using such easements where the town has authority to do so.

(b) Nothing in this Agreement shall limit the right of Empire Video to transmit any kind of signal, frequency, or provide any type of service now in existence or which may come into existence and which is capable of being lawfully transmitted and distributed by those facilities owned and operated by Empire Video. The provision by Empire Video of any service other than cable service shall be subject to all applicable laws and regulations and to any right the Town of Big Flats may have to require fair and reasonable compensation for Empire Video's use of the rights-of-way to provide such service, provided that such requirement is non-discriminatory and competitively neutral.

(c) Without waiver or restriction of the rights available to the parties hereto under applicable law, this Franchise and the attachments hereto constitute the entire agreement between the parties and supersede any and all prior cable television agreements and other agreements or instruments by or between the parties hereto or their predecessors in interest as well as all rights, obligations and liabilities arising thereunder concerning or in any way relating to Cable Television Service.

(d) In the event the Municipality grants to any other Person (being referred to as "Grantee" in the below quoted paragraph) a franchise, consent or other right to occupy or use the Streets, or any part thereof, for the construction, operation or maintenance of all or part of a cable television system or any similar system or technology, the

Municipality shall insert the following language into any such franchise, consent or other document and/or promptly pass a resolution, conditioning the use of the Streets or any part thereof by any such Person, as follows:

"Grantee agrees that it will not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of Empire Video without the prior written consent of Empire Video. Grantee shall indemnify Empire Video against any damages or expenses incurred by Empire Video as a result of any removal, damage, penetration, replacement or interruption of the services of Empire Video caused by the Grantee."

As used immediately above in the above quoted paragraph and throughout this entire contract, and throughout this entire contract, the term "Empire Video" shall mean Empire Video as defined in this Agreement, and its successors, assigns and transferees.

(e) This Franchise is non-exclusive. Any grant of a subsequent franchise shall be on terms and conditions which are not more favorable or less burdensome than those imposed on Empire Video hereunder. No municipality may award or renew a franchise for Cable Television Service which contains economic or regulatory burdens which when taken as a whole or greater or lesser than those burdens placed upon another cable television franchise operating in the same franchise area.

(f) As used in this Section, the phrase, "occupancy or use of Streets," or any similar phrase, shall not be limited to the physical occupancy or use thereof but shall include any use above the Streets by any technology including but not limited to infrared transmissions.

SECTION 3 - APPROVAL OF COMPANY BY MUNICIPALITY

(a) This Franchise is subject to and complies with all applicable Federal and State laws and regulations, including, without limitation, the rules of the NYSPSC concerning franchise standards. The Municipality hereby acknowledges and agrees that this Agreement has been entered into by it in accordance with and pursuant to the Communications Act of 1934, as amended, 47 U.S.C. Sec. 521 et seq. (hereinafter referred to as the "Communications Act"). The Municipality hereby represents and warrants that this Franchise has been duly entered into in accordance with all applicable local laws. The Municipality hereby acknowledges that it, by duly authorized members thereof, has met with Empire Video for the purposes of evaluating Empire Video and negotiating this Agreement and granting the Franchise.

(b) In a full and public proceeding, affording due process, the Municipality has considered and approved Empire Video's technical ability and character and has considered and found adequate Empire Video's plans for constructing, maintaining and operating the cable system

SECTION 4 - FRANCHISE TERM

The term of this Franchise shall be ten (10) years.

SECTION 5 - ASSIGNMENT OR TRANSFER OF FRANCHISE

- (a) Empire Video shall not transfer this Franchise to any person, firm, company, corporation or any other entity without the prior written consent of the Municipality, which consent shall not be unreasonably withheld or denied.
- (b) In the event that the Municipality refuses to grant such consent, it shall set forth specific reasons for its decision in writing by municipal resolution.
- (c) Notwithstanding the above, this Section 5 shall not be applicable and no prior approval shall be required if Empire Video shall transfer this Franchise to any of its principal partners, to any parent, subsidiary or affiliate of any of the principal partners of Empire Video, or to any other firms or entities controlling, controlled, by or under the same common control as Empire Video.

SECTION 6 - REVOCATION

- (a) The Municipality may revoke this Franchise and all rights afforded Empire Video hereunder in any of the following events or for any of the following reasons:
 - (i) Empire Video fails after thirty (30) days written notice from the Municipality to substantially comply or to take reasonable steps to comply with a material provision of this Franchise. Notwithstanding the above, should Empire Video comply or take said reasonable steps to comply within said thirty (30) thirty days' notice, the Municipality's right to revoke this Agreement and the Franchise shall immediately be extinguished; or
 - (ii) Empire Video is adjudged a bankrupt; or
 - (iii) Empire Video knowingly and willfully attempts or does practice a material fraud or deceit in its securing of this Agreement or the Franchise.
- (b) At the expiration, revocation or other termination of this franchise, the Municipality shall have the right to require the Franchisee to remove at the Franchisee's own expense any or all portions of the Cable Distribution system from the streets and public ways within the Municipality. The Municipality shall have the right to revoke this franchise for substantial breach of any of the material terms and conditions of this franchise by the Franchisee. Said revocation will not be effective until thirty (30) days after written notice of the violation constituting the grounds for revocation has been personally served upon the Franchisee by certified mail, return receipt requested, and Franchisee shall not have corrected the violation after notice, as outlined in paragraph (a) of this section. Any such revocation shall be accomplished by Board resolution and only after a public hearing. Failure to comply with the removal of the Franchisee's Cable Distribution System, when requested, as outlined within this section, shall result in a penalty of \$100.00 per day of non-compliance, payable to the Municipality within one

hundred and eighty (180) days after the violation day, not to exceed one year. Failure to comply with the requirement to remove the Franchisee's Cable Distribution System in whole or part, when requested, as outlined within this section shall, after one year, result in the Municipality contracting the services to remove the Franchisee's Cable Distribution System and all charges will be submitted to Empire Video for reimbursement to be paid to the Municipality within sixty (60) days.

SECTION 7 - INDEMNIFICATION & INSURANCE

(a) Empire Video shall indemnify and hold harmless the Municipality from all liability, damage and costs or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct of Empire Video its employees or agents undertaken pursuant to this Agreement or the Franchise. The Town shall promptly notify Empire Video of any claim for which it seeks indemnification; afford Empire Video the opportunity to fully control the defense of such claim and any compromise, settlement, resolution or other disposition of such claim, including by making available to Empire Video all relevant information under its control.

(b) Empire Video shall as of the Effective Date of this Franchise obtain liability insurance in the minimum amount set forth within and shall furnish to the Municipality evidence of such liability insurance policy or policies, in the form of a certificate of insurance naming the Municipality as an additional named insured, which policy or policies or replacements thereof shall remain in effect throughout the term of this Franchise; said policy and replacements shall be in the combined amount of Three Million Dollars (\$3,000,000.00) for property damage or bodily injury or death to any one person, with the limit, and Three Million Dollars (\$3,000,000.00) bodily injury or death from any one (1) accident with policy to be issued by a company authorized to do business in New York State and that has an A+ or better A & M Best Rating. Such policy shall be primary and non-contributory to any policy of insurance of the Municipality relative to such claims. In addition, Empire Video shall carry Worker's Compensation insurance for its employees in such amounts as is required by the laws of the State of New York. The insurance coverage herein referred to above may be included in one or more policies covering other risks of Empire Video or any of its affiliates, subsidiaries or assigns.

SECTION 8 - USE OF EXISTING POLES AND LOCATION OF UNDERGROUND FACILITIES

(a) Empire Video hereby agrees that when and wherever it deems it economical and reasonably feasible, it shall enter into agreements with telephone or electric or other utilities (collectively "utilities") for the use of said utilities' poles or conduit space whereby said utilities shall provide use of and access to said poles or conduit space by Empire Video for Empire Video's lines and other equipment. Notwithstanding the above, where necessary to service Subscribers and where attachment to the pole(s) or conduit

space of other utilities is not economically reasonable or otherwise feasible, Empire Video may erect or authorize or permit others to erect any poles or conduit space or any other facilities within the Streets of the Municipality pursuant to the issuance by the Municipality of any necessary authorizations which shall not be unreasonably withheld or delayed.

(b) In such areas of the Municipality where it or any sub-division thereof shall hereafter duly require that all utility lines be installed underground, Empire Video shall install its lines underground in accordance with such requirement. In established areas or any sub-division where all utility lines have previously been established, constructed, or exist underground, Empire Video shall likewise construct, maintain, repair or install underground all lines associated with the Cable Television System.

SECTION 9 - RELOCATION OF PROPERTY

(a) Whenever the Municipality shall require the relocation or reinstallation of any property of Empire Video in or on any of the Streets of the Municipality as a result of the relocation or other improvements by the Municipality of any such Streets, it shall be the obligation of Empire Video on written notice of such requirement to remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the Municipality. In the event any other person, including a public utility, is compensated for similar relocation or reinstallation then in such case Empire Video shall be similarly compensated.

(b) Empire Video shall, on request of a person holding a building or moving permit issued by the Municipality, temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, and/or the raising or lowering of wires or other property shall be paid in advance to Empire Video by the person requesting the same. Empire Video shall be given in such cases not less than five (5) days prior written notice in order to arrange for the changes required.

SECTION 10 - USE & INSTALLATION

(a) Empire Video or any person authorized by Empire Video to erect, construct or maintain any of the property of Empire Video used in the transmission or reception of Cable Television Service shall at all times employ due care under the facts and circumstances and shall maintain and install said property of Empire Video in accordance with commonly accepted methods and principles in the cable television industry so as to prevent failures and accidents likely to cause damage or injury to members of the public. All Cable Television System equipment shall conform to those standards of the National Electrical Code and the National Board of Fire Underwriters which exists at the time said equipment is installed and replaced.

(b) Empire Video agrees to install all Cable Television System equipment in a manner to reasonably minimize interference to be expected with the usual use of the Streets and in no event shall any such Cable Television System equipment be located so as to substantially and regularly interfere with the usual public travel on any Street of the Municipality . Empire Video shall construct and maintain its cable system using materials of good and durable quality and shall perform all work involved in the construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner. Empire Video shall promptly repair or replace any municipal property damaged or destroyed by Empire Video so as to restore it to serviceable condition.

(c) Whenever Empire Video or any person on its behalf shall cause any injury or damage to public property or Street, by or because of the installation, maintenance or operation of the Cable Television System equipment, such injury or damage shall be remedied as soon as reasonably possible after the earlier of notice to Empire Video from the Municipality or after Empire Video becomes aware of the same, in such fashion so as to restore the property or Street to substantially the same serviceable condition.

Empire Video is hereby granted the authority to trim trees upon and overhanging the Streets of, and abutting private property, (i.e., in the public way) in the Municipality to the existence it reasonably deems necessary so as to prevent the branches or growths from coming in contact with the wires, cable and other equipment of Franchisee's Cable Television System.

SECTION 11 - CONTINUOUS SERVICE

Empire Video shall continue to provide Cable Television Service to all subscribers who meet their obligations to Empire Video with respect to Cable Television Service. Empire Video shall not, without the written consent of the Municipality abandon its Cable Television System or any portion thereof.

SECTION 12 - FRANCHISE AREA AND LINE EXTENSION

Empire Video shall comply with the requirements for construction of cable television plant and provision of cable television services as set forth in Section 895.5 of the NYSpsc Rules, as the same may from time to time be amended, supplemented or changed. Empire Video shall review line extensions in May of each year to reflect the number of subscribers per mile so that adjustments or rebates for line extension contribution in aid of construction may be established in accordance with Section 895.5 of the NYSpsc Rules.

SECTION 13 - OPERATION AND MAINTENANCE

(a) Empire Video shall contract and maintain its Cable Television System using materials of good and durable quality and shall perform all work involved in the

construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner.

(b) Empire Video shall maintain and operate its Cable Television System at all times in compliance with the duly promulgated and lawful provisions of Section 896 of the Rules and Regulations of the NYSPSC and the technical requirements set forth by the FCC. Empire Video shall maintain staffing levels and support equipment to assure that telephone inquiries are handled promptly in order to minimize busy signals and hold time. Empire Video shall have, at all times, a person on call able to perform minor repairs or corrections to malfunctioning equipment of the Cable Television System. Empire Video shall respond to individual requests for repair service no later than the next business day. System outages, and problems associated with channel scrambling and switching equipment, shall be acted upon promptly after notification. Empire Video shall maintain a means to receive repair service requests and notice of system outages at times when its business office is closed. The Municipality shall have the right and authority to request an inspection or test of Empire Video's Cable Television System be performed, all at the Municipality's expense. Empire Video shall fully cooperate in the performance of such testing.

(c) Empire Video will construct a state of the art fiber cable system capable of providing a minimum capacity of 125 channels of Cable Television Service. Empire Video shall maintain the Cable Television System at the same or at an enhanced level during the term of the Franchise.

SECTION 14 - RATES

Empire Video shall not illegally discriminate against individuals in the establishment and application of rates and charges for Video Programming or other communication services available to generally all subscribers. The rates and charges imposed by the Franchisee for Cable Television Service shall be subject to regulation in accordance with federal law, as well as the NYSPSC.

SECTION 15 - SERVICE TO PUBLIC FACILITIES, ACCOUNTABILITY PROVISIONS AND INSPECTION OF RECORDS

(a) Municipality, upon reasonable notice and during normal business hours, shall have the right to inspect all books, records, maps, plans, financial statements and other like materials of Empire Video which are pertinent to Empire Video's compliance with the terms and conditions of this Franchise.

(b) Municipality and Empire Video agree that Empire Video's obligations hereunder are subject to any applicable law, including laws regarding the privacy of information regarding subscribers.

(c) Municipality will maintain the confidentiality of any information obtained pursuant to this provision to the extent permitted by law, provided Empire Video has advised Municipality of the confidential nature of the information. In the event that the Municipality receives request for the disclosure of such information with which it, in good faith, believes it must under law comply, then the Municipality will give Empire Video notice of such request as soon as possible prior to disclosure in order to allow Empire Video to take such steps as it may deem appropriate to seek judicial or other remedies to protect the confidentiality of such information.

SECTION 16 - PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS

Empire Video shall comply with the standards for public, educational and governmental (PEG) access channels as set forth in Section 895.4 of the NYSPSC Rules, as the same may from time to time be amended, supplemented or changed.

SECTION 17 - ADDITIONAL SUBSCRIBER SERVICES

(a) Payment for equipment provided by Empire Video to subscribers and the installation, repairs, and removal thereof shall be paid in accordance with Empire Video's standard and customary practices and applicable rules and regulations of the FCC.

(b) Notice of Empire Video's procedures for reporting and resolving billing disputes and Empire Video's policy and the subscribers rights in regard to "personally identifiable information," as that term is defined in Section 631 of the Communications Act, will be given to each subscriber at the time of such person's initial subscription to the Cable Television System services and thereafter to all subscribers as required by Federal or State law.

(c) Empire Video shall offer to, and shall notify in writing, the subscribers of the availability of locking program control devices which enable the subscriber to limit reception of obscene or indecent programming in the subscriber's residence.

(d) In accordance with the applicable requirements of Federal and State laws, Empire Video shall provide written notice of any increases in rates or charges for any Cable Television Service.

(e) The Administrator, as the case may be, for the Municipality for this Franchise shall be the Supervisor of the Municipality. The Administrator is responsible for the continuing administration of the Franchise on behalf of the Municipality. All correspondence and communications between Empire Video and the Municipality pursuant to this Agreement shall be addressed by Empire Video to the Administrator.

(f) It is agreed that all Cable Television Service offered to any subscribers under this Franchise shall be conditioned upon Empire Video having legal access to any such subscriber's dwelling units or other units wherein such service is provided.

(g) Empire Video shall comply with the Customer Service Consumer Protection Standards set forth in Sections 890 and 896 of the Rules and Regulations of the NYSPSC.

(h) At least once each year, Empire Video shall provide notice to each Subscriber of Empire Video's procedures for reporting and resolving Subscriber complaints.

(i) Empire Video will provide one (1) outlet of basic and standard cable service, at no charge, to any building owned by the Municipality, situated in areas served and located within 200 feet of existing cable. The Franchisee shall also provide at no charge, when requested, basic and standard cable service, and initial installation at the following locations within the Municipality and within 200 feet of existing cable: public and not-for-profit schools, all fire stations, and all Municipal buildings. No more than one (1) free drop shall be provided at any one (1) location. Additional cable distribution at these locations shall be at cost plus the hourly service charge of the Franchisee, which has been approved by FCC. There shall be no commercial use of these free drops. Empire Video will provide, to all schools and libraries within the municipality, and (1) free modem for the provision of Internet Service to the Community Center.

(j) The Franchisee shall provide Subscribers, upon request, static Internet Provider (IP) address(es) at prevailing rates.

(k) In the event a Subscriber terminates service in advance of a period for which a prepayment has been made, the Franchisee shall refund any unused portion of the prepayment.

SECTION 18 - FRANCHISE FEES

(a) Empire Video shall pay the Municipality an amount equal to 3% of Empire Video's Gross Revenues received by Empire Video directly from subscribers for all cable services purchased by subscribers and shall not include the amount attributable to franchise fees in the calculation of gross revenue.

(b) There shall be applied as a credit against the Franchise Fee the aggregate of: (i) any taxes, fees or assessments of general applicability imposed on Empire Video or any subscribers, or both, which are discriminatory against Empire Video or any subscribers, (ii) any non-capital expenses incurred by Empire Video in support of the PEG access requirements of this Franchise and (iii) any fees or assessments payable to the NYSPSC which when combined with all other fees and credits would exceed 5% of gross revenues. Empire Video shall have the right to apply franchise fees paid as a credit against special franchise assessments pursuant to Section 626 of the New York State Real Property Tax Law.

(c) Payment of the franchise fee shall be due quarterly within sixty (60) days of the end of the company's quarter. Empire Video shall submit to the Municipality, along with the payment of said fees, a report showing reasonable detail the basis for the computation thereof.

SECTION 19 - SEVERABILITY, GOVERNING LAW, POLICE POWERS REQUESTS FOR AUTHORIZATION AND NON-DISCRIMINATION

(a) Should any provision of this Agreement be held invalid by a court or regulatory agency of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

(b) To the extent not inconsistent with or contrary to applicable federal law, the terms of this Agreement shall be governed and construed in accordance with the laws of the State of New York. The parties hereby acknowledge and agree that any provisions of this Franchise or any existing or future State or local laws or rules that are inconsistent with or contrary to any applicable Federal law, including the Cable Act, as the same may be amended, are and shall be prohibited, preempted and/or superseded to the extent of any inconsistency or conflict with any applicable Federal laws. Any modification of the Agreement pursuant to this Section would constitute an amendment of the Franchise subject to Section 222 of the PSC law and Subpart 892-1.4 and must have prior PSC approval.

(c) In addition to the provisions contained in this Agreement and in existing applicable ordinances, the Municipality may adopt such additional regulations as it shall find necessary in the exercise of its police power, provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this Agreement.

(d) Empire Video shall file requests for any necessary operating authorization with the NYSPSC and the FCC within sixty (60) days from the date the Franchise is awarded by the Municipality.

(e) Empire Video will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

(f) Access to cable service will not be denied to any group or potential resident subscriber because of the income of the residents of the local area in which such group resides.

(g) The terms of the Franchise are subject to the approval of the Public Service Commission (PSC).

SECTION 20 - NOTICE

All notices required herein shall be in writing and shall be deemed delivered when received by United States certified mail, return receipt requested, or on the date of delivery to addressee when sent by express mail, or overnight, or hand delivered to the parties and locations as specified below. Both Empire Video and Municipality may change where notice is to be given by giving notice to the other.

When notices sent to Empire Video:

Empire Video Services Corp.

34 Main St.

Prattsburgh, NY 14873

Telephone: (607) 522-3712

Facsimile: (607) 522-4275

When notices sent to the TOWN OF BIG FLATS:

Town of Big Flats

476 Maple Street

Big Flats, NY 14814 Telephone: (607) 562-8443

SECTION 21 - FORCE MAJEURE

In no event, and notwithstanding any contrary provision in this Franchise, shall this Franchise be subject to revocation or termination, or Empire Video be subject to penalty or prejudice or in any way liable for non-compliance with or delay in the performance of any obligations hereunder, where its failure to cure or take reasonable steps to cure is due to reason of strike, Acts of God, acts of public enemies, order of any kind of a government of the United States of America or of the State or any of their departments, agencies, political subdivisions; riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of Empire Video. Empire Video shall not be deemed to be in violation or default during the continuance of such inability and Empire Video shall be excused from its obligations herein during the course of any such events or conditions and the time specified for performance of Empire Video's obligations hereunder shall automatically extended for a period of time equal to the period of the existence of any such events or conditions and such reasonable thereafter as shall have been necessitated by any such events or conditions.

SECTION 22 - RIGHTS OF ENFORCEMENT

Nothing contained in this Franchise is intended to or shall confer any rights or remedies on any third parties to enforce the terms of this Franchise.

SECTION 23 - FURTHER ASSURANCES

The Municipality shall, without further consideration, execute and deliver such further instruments and documents and do such other acts and things as Empire Video may reasonably request in order to effect and confirm this Franchise and the rights and obligations contemplated herein.

SECTION 24 - INTEGRATION

This Franchise supersedes all prior negotiations between the parties hereto and shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and permitted assigns. This Franchise may be amended (except as otherwise expressly provided for herein) only by agreement in writing signed by duly authorized persons on behalf of both parties. To the extent required by State law, amendments hereto shall be confirmed or approved by the NYSPSC.

This Franchise may be executed in one or more counterparts, all of which taken together shall be deemed one (1) original.

The headings of the various Sections of this Franchise are for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Franchise.

The rights and remedies of the parties pursuant to this Franchise are cumulative and shall be in addition to and not in derogation of any rights or remedies which the parties may have with respect to the subject matter of this Franchise.

SECTION 25 - NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or any agency or employment relationship between the parties, and neither party is authorized to nor shall either party act toward any third parties or to the public in any manner which would indicate any such relationship with the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____ day of _____, 2014.

Empire Video Services Corporation

By: _____

Brian J. Ketchum

VP/GM

Town of Big Flats

By: _____

Ed Fairbrother

Town Supervisor

STATE OF NEW YORK)

) ss:

COUNTY OF)

On _____, 2014 before me, the undersigned personally appeared _____, The _____ of Empire Video Services Corporation, Inc., personally known to me or proved to me, on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)

) ss:

COUNTY OF CHEMUNG)

On _____, 2014, before me, the undersigned personally appeared EDWARD FAIRBROTHER, Supervisor for the Town of Big Flats, personally known to me or proved to me, on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

CABLE TELEVISION FRANCHISE AGREEMENT

TOWN OF BIG FLATS

THIS AGREEMENT, executed this ____ day of _____, 2014, by and between the TOWN OF BIG FLATS (hereafter referred to as the Municipality) by the Supervisor acting in accordance with the authority of the duly empowered local governing body, (hereinafter referred to as the Board) and **COMMUNITY CABLE CORPORATION d/b/a/ NORTH PENN VIDEO**, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office address of 34 Main St., Prattsburgh, NY 14873 (hereinafter referred to as "North Penn Video").

WITNESSETH

WHEREAS, pursuant to the laws of the Municipality, the Board has the exclusive power on behalf of the Municipality to grant franchises providing for or involving the use of the Streets (as defined in Section I hereof) and to give the consent of the Municipality to any franchisee for or relating to the occupation of the Streets; and

WHEREAS, pursuant to the Communications Act of 1934, as amended, (the "Communications Act") the Board has the authority to grant cable television franchises and renewals thereof on behalf of the Municipality and whereas the Board and North Penn Video pursuant to said Federal Law and pursuant to applicable State laws and the regulations promulgated thereunder, have complied with the franchise procedures required of Municipalities and cable operators in the grant of cable television franchises or their renewal; and

WHEREAS, the Municipality has conducted negotiations with North Penn Video and has conducted one or more public hearings on North Penn Video's franchise proposal affording all interested parties due process including notice and the opportunity to be heard; said deliberations included consideration and approval of North Penn Video's technical ability, financial condition and character; said public hearing also included consideration and approval of North Penn Video's plans for constructing and operating the cable television system; and

WHEREAS, following such public hearings and such further opportunity for review, negotiations and other actions as the Board deemed necessary and that is required by law. The Board decided to grant North Penn Video's franchise as provided hereinafter: and

WHEREAS, in granting the Franchise (as defined in Section 1 hereof),, the Board embodied in this Agreement the results of its review and any negotiations with North Penn Video and has determined that this Agreement and North Penn Video respectively,

fulfills and will fulfill the needs of the Municipality with respect to cable television service and complies with the standards and requirements of the NYSPSC (as defined in Section 1).

NOW, THEREFORE, In consideration of the foregoing clauses, which clauses are hereby made a part of this franchise agreement, and the mutual covenants and agreements herein contained, the parties hereby covenant and agree:

SECTION 1 - DEFINED TERMS

Unless the context clearly indicates that a different meaning is intended:

- (a) "Agreement" has the meaning set forth in the introductory paragraph hereof.
- (b) "Basic Service" means any service tier which includes the retransmission of local broadcast signals.
- (c) "Board" means the Town Board of the Municipality.
- (d) "Cable Television Service" means
 - (1) The one way transmission to Subscribers of Video Programming, High Speed Internet and Voice Services Programming
 - (2) Subscriber interaction, if any, which is required for the selection or use of such Video Programming, or other programming service, and
 - (3) Video programming and other transmissions that are received by subscribers via the "Cable Television System" defined below
 - (4) Video programming and other transmissions that are received by the subscribers via the "Cable Television System" defined below.
- (e) "Cable Television System" means a facility, consisting of a set of transmission paths including (without limitation) fiber optic wires or lines, and associated signal generation, reception and control equipment that provides Cable Television Service and other lawful services via electrical and electronic signals to subscribers and/or customers. And other lawful services via electrical and electronic signals to subscribers and/or customers.
- (f) "North Penn Video" has the meaning set forth in the introductory paragraph hereof.
- (g) "Effective Date" of this agreement shall be from the date as specified in the Commission's Order Approving Renewal from the date as specified in the Commission's Order Approving Renewal.

- (h) "Franchise" means the grant or authority given hereunder to North Penn Video to construct and operate a Cable Television System in the Municipality in accordance with the terms hereof.
- (i) "FCC" means the Federal Communications Commission, its designees and any successor hereto.
- (j) "Gross Revenues" shall mean all compensation received by the Cable Company, directly or indirectly, from subscribers, advertisers or other users of the Cable Television System in connection with the operation of the Cable Television System, in accordance with the FCC and PSC rules, all recurring monthly revenue as well as installation, pay per view, home shopping and advertising revenues, and any other monies on which cable franchise fees can be imposed consistent with federal and state laws and regulations, but not including late fees.
- (k) "May" is permissive.
- (l) "Municipality" means the Municipality. Wherever the context shall permit, Board, Council and Municipality shall be used interchangeably and shall have the same meaning under this Franchise.
- (m) "NYS PSC" means New York State Public Service Commission.
- (n) "Person" means an individual, partnership, association, corporation, joint stock company trust, corporation, or organization of any kind.
- (o) "PPV" means non-recurring revenue generated by specific programming purchases by customers.
- (p) "Service Tier" means a category of Cable Television Service provided by North Penn Video over the Cable Television System for which a separate rate is charged for such category by North Penn Video.
- (q) "Shall" or "will" are mandatory.
- (r) "Streets" means the surface of, as well as the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks and public grounds and waters within or belonging to the Municipality .
- (s) "Subscriber" means any person lawfully receiving any Cable Television Service in the Municipality provided over the Cable Television System.
- (t) "Video Programming" means any and all programming services provided by, or

generally considered comparable to programming provided by a television broadcast station.

SECTION 2 -CONSENT TO FRANCHISE AND CONDITION PRECEDENT

The Municipality hereby grants to North Penn Video the non-exclusive right to construct, erect, operate and maintain a Cable Television System and to provide Cable Television Service within the Municipality as it now exists and may hereafter be changed, and in so doing to use the Streets of the Municipality by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, over, upon and across any and all said Streets such facilities (e.g., poles, wires, cables, conductors, ducts, conduits, vaults, pedestals, manholes, amplifiers, appliances, attachments and other property) as is deemed necessary or useful by North Penn Video, for the operation of its cable system. Additionally, the Municipality insofar as it may have the authority to so grant, hereby authorizes North Penn Video to use any and all easements dedicated to compatible uses, such as electric, gas, telephone or other utility transmissions, for the purposes of the operation of its cable system. Upon request by North Penn Video and at North Penn Video's sole expense, the Municipality hereby agrees to assist North Penn Video in gaining access to and using such easements where the town has authority to do so.

(a) Nothing in this Franchise shall limit the right of North Penn Video to transmit any kind of signal, frequency, or provide any type of service now in existence or which may come into existence and which is capable of being lawfully transmitted and distributed by those facilities owned and operated by North Penn Video. The provision by North Penn Video of any service other than cable service shall be subject to all applicable laws and regulations and to any right the Town of Big Flats may have to require fair and reasonable compensation for North Penn Video's use of the rights-of-way to provide such service, provided that such requirement is non-discriminatory and competitively neutral.

(b) Without waiver or restriction of the rights available to the parties hereto under applicable law, this Franchise and the attachments hereto constitute the entire agreement between the parties and supersede any and all prior cable television agreements and other agreements or instruments by or between the parties hereto or their predecessors in interest as well as all rights, obligations and liabilities arising thereunder concerning or in any way relating to Cable Television Service.

(c) In the event the Municipality grants to any other Person (being referred to as "Grantee" in the below quoted paragraph) a franchise, consent or other right to occupy or use the Streets, or any part thereof, for the construction, operation or maintenance of all or part of a cable television system or any similar system or technology, the Municipality shall insert the following language into any such franchise, consent or

other document and/or promptly pass a resolution, conditioning the use of the Streets or any part thereof by any such Person, as follows:

"Grantee agrees that it will not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of North Penn Video without the prior written consent of North Penn Video. Grantee shall indemnify North Penn Video against any damages or expenses incurred by North Penn Video as a result of any removal, damage, penetration, replacement or interruption of the services of North Penn Video caused by the Grantee."

As used immediately above in the above quoted paragraph and throughout this entire contract, and throughout this entire contract, the term "North Penn Video" shall mean North Penn Video as defined in this Agreement, and its successors, assigns and transferees.

(d) This Franchise is non-exclusive. Any grant of a subsequent franchise shall be on terms and conditions which are not more favorable or less burdensome than those imposed on North Penn Video hereunder. No municipality may award or renew a franchise for Cable Television Service which contains economic or regulatory burdens which when taken as a whole or greater or lesser than those burdens placed upon another cable television franchise operating in the same franchise area.

(e) As used in this Section, the phrase, "occupancy or use of Streets," or any similar phrase, shall not be limited to the physical occupancy or use thereof but shall include any use above the Streets by any technology including but not limited to infrared transmissions.

SECTION 3 - APPROVAL OF COMPANY BY MUNICIPALITY

(a) This Franchise is subject to and complies with all applicable Federal and State laws and regulations, including, without limitation, the rules of the NYSPSC concerning franchise standards. The Municipality hereby acknowledges and agrees that this Agreement has been entered into by it in accordance with and pursuant to the Communications Act of 1934, as amended, 47 U.S.C. Sec. 521 et seq. (hereinafter referred to as the "Communications Act"). The Municipality hereby represents and warrants that this Franchise has been duly entered into in accordance with all applicable local laws. The Municipality hereby acknowledges that it, by duly authorized members thereof, has met with North Penn Video for the purposes of evaluating North Penn Video and negotiating this Agreement and granting the Franchise.

(b) In a full and public proceeding, affording due process, the Municipality has considered and approved North Penn Video's technical ability and character and has considered and found adequate North Penn Video's plans for constructing, maintaining and operating the cable system.

SECTION 4 - FRANCHISE TERM

The term of this Franchise shall be ten (10) years.

SECTION 5 - ASSIGNMENT OR TRANSFER OF FRANCHISE

(a) North Penn Video shall not transfer this Franchise to any person, firm, company, corporation or any other entity without the prior written consent of the Municipality, which consent shall not be unreasonably withheld or denied.

(b) In the event that the Municipality refuses to grant such consent, it shall set forth specific reasons for its decision in writing by municipal resolution.

(c) Notwithstanding the above, this Section 5 shall not be applicable and no prior approval shall be required if North Penn Video shall transfer this Franchise to any of its principal partners, to any parent, subsidiary or affiliate of any of the principal partners of North Penn Video, or to any other firms or entities controlling, controlled, by or under the same common control as North Penn Video.

SECTION 6 - REVOCATION

(a) The Municipality may revoke this Franchise and all rights afforded North Penn Video hereunder in any of the following events or for any of the following reasons:

(i) North Penn Video fails after thirty (30) days written notice from the Municipality to substantially comply or to take reasonable steps to comply with a material provision of this Franchise. Notwithstanding the above, should North Penn Video comply or take said reasonable steps to comply within said thirty

(30) thirty days' notice, the Municipality's right to revoke this Agreement and the Franchise shall immediately be extinguished; or

(ii) North Penn Video is adjudged a bankrupt; or

(iii) North Penn Video knowingly and willfully attempts or does practice a material fraud or deceit in its securing of this Agreement or the Franchise.

(b) At the expiration, revocation or other termination of this franchise, the Municipality shall have the right to require the Franchisee to remove at the Franchisee's own expense any or all portions of the Cable Distribution system from the streets and public ways within the Municipality. The Municipality shall have the right to revoke this franchise for substantial breach of any of the material terms and conditions of this franchise by the Franchisee. Said revocation will not be effective until thirty (30) days after written notice of the violation constituting the grounds for revocation has been personally served upon the Franchisee by certified mail, return receipt requested, and Franchisee shall not have corrected the violation after notice, as outlined in paragraph

(a) of this section. Any such revocation shall be accomplished by Board resolution and only after a public hearing. Failure to comply with the removal of the Franchisee's Cable Distribution System, when requested, as outlined within this section, shall result in a penalty of \$100.00 per day of non-compliance, payable to the Municipality within one hundred and eighty (180) days after the violation day, not to exceed one year. Failure to comply with the requirement to remove the Franchisee's Cable Distribution System in whole or part, when requested, as outlined within this section shall, after one year, result in the Municipality contracting the services to remove the Franchisee's Cable Distribution System and all charges will be submitted to North Penn Video for reimbursement to be paid to the Municipality within sixty (60) days.

SECTION 7 - INDEMNIFICATION & INSURANCE

(a) North Penn Video shall indemnify and hold harmless the Municipality from all liability, damage and costs or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct of North Penn Video its employees or agents undertaken pursuant to this Agreement or the Franchise. The Town shall promptly notify North Penn Video of any claim for which it seeks indemnification; afford North Penn Video the opportunity to fully control the defense of such claim and any compromise, settlement, resolution or other disposition of such claim, including by making available to North Penn Video all relevant information under its control.

(b) North Penn Video shall as of the Effective Date of this Franchise obtain liability insurance in the minimum amount set forth within and shall furnish to the Municipality evidence of such liability insurance policy or policies, in the form of a certificate of insurance naming the Municipality as an additional named insured, which policy or policies or replacements thereof shall remain in effect throughout the term of this Franchise; said policy and replacements shall be in the combined amount of Three Million Dollars (\$3,000,000.00) for property damage or bodily injury or death to any one person, with the limit, and Three Million Dollars (\$3,000,000.00) bodily injury or death from any one (1) accident with policy to be issued by a company authorized to do business in New York State and that has an A+ or better A & M Best Rating. Such policy shall be primary and non-contributory to any policy of insurance of the Municipality relative to such claims. In addition, North Penn Video shall carry Worker's Compensation insurance for its employees in such amounts as is required by the laws of the State of New York. The insurance coverage herein referred to above may be included in one or more policies covering other risks of North Penn Video or any of its affiliates, subsidiaries or assigns.

SECTION 8 - USE OF EXISTING POLES AND LOCATION OF UNDERGROUND FACILITIES

(a) North Penn Video hereby agrees that when and wherever it deems it economical and reasonably feasible, it shall enter into agreements with telephone or electric or other utilities (collectively "utilities") for the use of said utilities' poles or conduit space whereby said utilities shall provide use of and access to said poles or conduit space by North Penn Video for North Penn Video's lines and other equipment. Notwithstanding the above, where necessary to service Subscribers and where attachment to the pole(s) or conduit space of other utilities is not economically reasonable or otherwise feasible, North Penn Video may erect or authorize or permit others to erect any poles or conduit space or any other facilities within the Streets of the Municipality pursuant to the issuance by the Municipality of any necessary authorizations which shall not be unreasonably withheld or delayed.

(b) In such areas of the Municipality where it or any sub-division thereof shall hereafter duly require that all utility lines be installed underground, North Penn Video shall install its lines underground in accordance with such requirement. In established areas or any sub-division where all utility lines have previously been established, constructed, or exist underground, North Penn Video shall likewise construct, maintain, repair or install underground all lines associated with the Cable Television System.

SECTION 9 - RELOCATION OF PROPERTY

(a) Whenever the Municipality shall require the relocation or reinstallation of any property of North Penn Video in or on any of the Streets of the Municipality as a result of the relocation or other improvements by the Municipality of any such Streets, it shall be the obligation of North Penn Video on written notice of such requirement to remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the Municipality.

In the event any other person, including a public utility, is compensated for similar relocation or reinstallation then in such case North Penn Video shall be similarly compensated.

(b) North Penn Video shall, on request of a person holding a building or moving permit issued by the Municipality, temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, and/or the raising or lowering of wires or other property shall be paid in advance to North Penn Video by the person requesting the same. North Penn Video shall be given in such cases not less than five (5) days prior written notice in order to arrange for the changes required.

SECTION 10 - USE & INSTALLATION

(a) North Penn Video or any person authorized by North Penn Video to erect, construct or maintain any of the property of North Penn Video used in the transmission

or reception of Cable Television Service shall at all times employ due care under the facts and circumstances and shall maintain and install said property of North Penn Video in accordance with commonly accepted methods and principles in the cable television industry so as to prevent failures and accidents likely to cause damage or injury to members of the public. All Cable Television System equipment shall conform to those standards of the National Electrical Code and the National Board of Fire Underwriters which exists at the time said equipment is installed and replaced.

(b) North Penn Video agrees to install all Cable Television System equipment in a manner to reasonably minimize interference to be expected with the usual use of the Streets and in no event shall any such Cable Television System equipment be located so as to substantially and regularly interfere with the usual public travel on any Street of the Municipality. North Penn Video shall construct and maintain its cable system using materials of good and durable quality and shall perform all work involved in the construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner. North Penn Video shall promptly repair or replace any municipal property damaged or destroyed by North Penn Video so as to restore it to serviceable condition.

(c) Whenever North Penn Video or any person on its behalf shall cause any injury or damage to public property or Street, by or because of the installation, maintenance or operation of the Cable Television System equipment, such injury or damage shall be remedied as soon as reasonably possible after the earlier of notice to North Penn Video from the Municipality or after North Penn Video becomes aware of the same, in such fashion so as to restore the property or Street to substantially the same serviceable condition. North Penn Video is hereby granted the authority to trim trees upon and overhanging the Streets of, and abutting private property, (i.e., in the public way) in the Municipality to the extent it reasonably deems necessary so as to prevent the branches or growths from coming in contact with the wires, cable and other equipment of Franchisee's Cable Television System.

SECTION 11 - CONTINUOUS SERVICE

North Penn Video shall continue to provide Cable Television Service to all subscribers who meet their obligations to North Penn Video with respect to Cable Television Service. North Penn Video shall not, without the written consent of the Municipality abandon its Cable Television System or any portion thereof.

SECTION 12 - FRANCHISE AREA AND LINE EXTENSION

North Penn Video shall comply with the requirements for construction of cable television plant and provision of cable television services as set forth in Section 895.5 of the NYSPSC Rules, as the same may from time to time be amended, supplemented or changed. North Penn Video shall review line extensions in May of each year to reflect

the number of subscribers per mile so that adjustments or rebates for line extension contribution in aid of construction may be established in accordance with Section 895.5 of the NYPSC Rules.

SECTION 13 - OPERATION AND MAINTENANCE

(a) North Penn Video shall contract and maintain its Cable Television System using materials of good and durable quality and shall perform all work involved in the construction, installation, maintenance and repair of the cable system in a safe, thorough and reliable manner.

(b) North Penn Video shall maintain and operate its Cable Television System at all times in compliance with the duly promulgated and lawful provisions of Section 896 of the Rules and Regulations of the NYPSC and the technical requirements set forth by the FCC. North Penn Video shall maintain staffing levels and support equipment to assure that telephone inquiries are handled promptly in order to minimize busy signals and hold time. North Penn Video shall have, at all times, a person on call able to perform minor repairs or corrections to malfunctioning equipment of the Cable Television System. North Penn Video shall respond to individual requests for repair service no later than the next business day. System outages, and problems associated with channel scrambling and switching equipment, shall be acted upon promptly after notification. North Penn Video shall maintain a means to receive repair service requests and notice of system outages at times when its business office is closed. The Municipality shall have the right and authority to request an inspection or test of North Penn Video's Cable Television System be performed, all at the Municipality's expense. North Penn Video shall fully cooperate in the performance of such testing.

(c) North Penn Video will construct a state of the art fiber cable system capable of providing a minimum capacity of 125 channels of Cable Television Service. North Penn Video shall maintain the Cable Television System at the same or at an enhanced level during the term of the Franchise.

SECTION 14 - RATES

North Penn Video shall not illegally discriminate against individuals in the establishment and application of rates and charges for Video Programming or other communication services available to generally all subscribers. The rates and charges imposed by the Franchisee for Cable Television Service shall be subject to regulation in accordance with federal law, as well as the NYPSC.

SECTION 15 - SERVICE TO PUBLIC FACILITIES, ACCOUNTABILITY PROVISIONS AND INSPECTION OF RECORDS

(a) Municipality, upon reasonable notice and during normal business hours, shall have the right to inspect all books, records, maps, plans, financial statements and other

like materials of North Penn Video which are pertinent to North Penn Video's compliance with the terms and conditions of this Franchise.

(b) Municipality and North Penn Video agree that North Penn Video's obligations hereunder are subject to any applicable law, including laws regarding the privacy of information regarding subscribers.

(c) Municipality will maintain the confidentiality of any information obtained pursuant to this provision to the extent permitted by law, provided North Penn Video has advised Municipality of the confidential nature of the information. In the event that the Municipality receives request for the disclosure of such information with which it, in good faith, believes it must under law comply, then the Municipality will give North Penn Video notice of such request as soon as possible prior to disclosure in order to allow North Penn Video to take such steps as it may deem appropriate to seek judicial or other remedies to protect the confidentiality of such information.

SECTION 16 - PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS

North Penn Video shall comply with the standards for public, educational and governmental (PEG) access channels as set forth in Section 895.4 of the NYS PSC Rules, as the same may from time to time be amended, supplemented or changed.

SECTION 17 - ADDITIONAL SUBSCRIBER SERVICES

(a) Payment for equipment provided by North Penn Video to subscribers and the installation, repairs, and removal thereof shall be paid in accordance with North Penn Video's standard and customary practices and applicable rules and regulations of the FCC.

(b) Notice of North Penn Video's procedures for reporting and resolving billing disputes and North Penn Video's policy and the subscribers rights in regard to "personally identifiable information," as that term is defined in Section 631 of the Communications Act, will be given to each subscriber at the time of such person's initial subscription to the Cable Television System services and thereafter to all subscribers as required by Federal or State law.

(c) North Penn Video shall offer to, and shall notify in writing, the subscribers of the availability of locking program control devices which enable the subscriber to limit reception of obscene or indecent programming in the subscriber's residence.

(d) In accordance with the applicable requirements of Federal and State laws, North Penn Video shall provide written notice of any increases in rates or charges for any Cable Television Service.

(e) The Administrator, as the case may be, for the Municipality for this Franchise shall be the Supervisor of the Municipality. The Administrator is responsible for the continuing administration of the Franchise on behalf of the Municipality. All correspondence and communications between North Penn Video and the Municipality pursuant to this Agreement shall be addressed by North Penn Video to the Administrator.

(f) It is agreed that all Cable Television Service offered to any subscribers under this Franchise shall be conditioned upon North Penn Video having legal access to any such subscriber's dwelling units or other units wherein such service is provided.

(g) North Penn Video shall comply with the Customer Service Consumer Protection Standards set forth in Sections 890 and 896 of the Rules and Regulations of the NYSPSC.

(h) At least once each year, North Penn Video shall provide notice to each Subscriber of North Penn Video's procedures for reporting and resolving Subscriber complaints.

(i) North Penn Video will provide one (1) outlet of basic and standard cable service, at no charge, to any building owned by the Municipality, situated in areas served and located within 200 feet of existing cable. The Franchisee shall also provide at no charge, when requested, basic and standard cable service, and initial installation at the following locations within the Municipality and within 200 feet of existing cable: public and not-for-profit schools, all fire stations, and all Municipal buildings. No more than one (1) free drop shall be provided at any one (1) location. Additional cable distribution at these locations shall be at cost plus the hourly service charge of the Franchisee, which has been approved by FCC. There shall be no commercial use of these free drops. North Penn Video will provide, to all schools and libraries within the municipality, and (1) free modem for the provision of Internet Service to the Community Center.

(j) The Franchisee shall provide Subscribers, upon request, static Internet Provider (IP) address (es) at prevailing rates.

(k) In the event a Subscriber terminates service in advance of a period for which a prepayment has been made, the Franchisee shall refund any unused portion of the prepayment.

SECTION 18 - FRANCHISE FEES

(a) North Penn Video shall pay the Municipality an amount equal to 3% of North Penn Video's Gross Revenues received by North Penn Video directly from subscribers for all cable services purchased by subscribers and shall not include the amount attributable to franchise fees in the calculation of gross revenue.

(b) There shall be applied as a credit against the Franchise Fee the aggregate of: (i) any taxes, fees or assessments of general applicability imposed on North Penn Video or any subscribers, or both, which are discriminatory against North Penn Video or any subscribers, (ii) any non-capital expenses incurred by North Penn Video in support of the PEG access requirements of this Franchise and (iii) any fees or assessments payable to the NYSPSC which when combined with all other fees and credits would exceed 5% of gross revenues. North Penn Video shall have the right to apply franchise fees paid as a credit against special franchise assessments pursuant to Section 626 of the New York State Real Property Tax Law.

(c) Payment of the franchise fee shall be due quarterly within sixty (60) days of the end of the company's quarter. North Penn Video shall submit to the Municipality, along with the payment of said fees, a report showing reasonable detail the basis for the computation thereof.

SECTION 19 - SEVERABILITY, GOVERNING LAW, POLICE POWERS REQUESTS FOR AUTHORIZATION AND NON-DISCRIMINATION

(a) Should any provision of this Agreement be held invalid by a court or regulatory agency of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

(b) To the extent not inconsistent with or contrary to applicable federal law, the terms of this Agreement shall be governed and construed in accordance with the laws of the State of New York. The parties hereby acknowledge and agree that any provisions of this Franchise or any existing or future State or local laws or rules that are inconsistent with or contrary to any applicable Federal law, including the Cable Act, as the same may be amended, are and shall be prohibited, preempted and/or superseded to the extent of any inconsistency or conflict with any applicable Federal laws. Any modification of the Agreement pursuant to this Section would constitute an amendment of the Franchise subject to Section 222 of the PSC law and Subpart 892-1.4 and must have prior PSC approval.

(c) In addition to the provisions contained in this Agreement and in existing applicable ordinances, the Municipality may adopt such additional regulations as it shall find necessary in the exercise of its police power, provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this Agreement.

(d) North Penn Video shall file requests for any necessary operating authorization with the NYSPSC and the FCC within sixty (60) days from the date the Franchise is awarded by the Municipality.

(e) North Penn Video will not refuse neither to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, color, national origin or sex.

(f) Access to cable service will not be denied to any group or potential resident subscriber because of the income of the residents of the local area in which such group resides.

(g) The terms of the Franchise are subject to the approval of the Public Service Commission (PSC).

SECTION 20 - NOTICE

All notices required herein shall be in writing and shall be deemed delivered when received by United States certified mail, return receipt requested, or on the date of delivery to addressee when sent by express mail, or overnight, or hand delivered to the parties and locations as specified below. Both North Penn Video and Municipality may change where notice is to be given by giving notice to the other.

When notices sent to North Penn Video:

North Penn Video

34 Main St.

Prattsburgh, NY 14873

Telephone: (607) 522-3712

Facsimile: (607) 522-4275

When notices sent to the TOWN OF BIG FLATS:

Town of Big Flats

476 Maple Street

Big Flats, NY 14814 Telephone: (607) 562-8443

SECTION 21 - FORCE MAJEURE

In no event, and notwithstanding any contrary provision in this Franchise, shall this Franchise be subject to revocation or termination, or North Penn Video be subject to penalty or prejudice or in any way liable for non-compliance with or delay in the performance of any obligations hereunder, where its failure to cure or take reasonable steps to cure is due to reason of strike, Acts of God, acts of public enemies, order of any kind of a government of the United States of America or of the State or any of their

departments, agencies, political subdivisions; riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of North Penn Video. North Penn Video shall not be deemed to be in violation or default during the continuance of such inability and North Penn Video shall be excused from its obligations herein during the course of any such events or conditions and the time specified for performance of North Penn Video's obligations hereunder shall automatically be extended for a period of time equal to the period of the existence of any such events or conditions and such reasonable thereafter as shall have been necessitated by any such events or conditions.

SECTION 22 - RIGHTS OF ENFORCEMENT

Nothing contained in this Franchise is intended to or shall confer any rights or remedies on any third parties to enforce the terms of this Franchise.

SECTION 23 - FURTHER ASSURANCES

The Municipality shall, without further consideration, execute and deliver such further instruments and documents and do such other acts and things as North Penn Video may reasonably request in order to effect and confirm this Franchise and the rights and obligations contemplated herein.

SECTION 24 - INTEGRATION

This Franchise supersedes all prior negotiations between the parties hereto and shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and permitted assigns. This Franchise may be amended (except as otherwise expressly provided for herein) only by agreement in writing signed by duly authorized persons on behalf of both parties. To the extent required by State law, amendments hereto shall be confirmed or approved by the NYSPSC.

This Franchise may be executed in one or more counterparts, all of which taken together shall be deemed one (1) original.

The headings of the various Sections of this Franchise are for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Franchise.

The rights and remedies of the parties pursuant to this Franchise are cumulative and shall be in addition to and not in derogation of any rights or remedies which the parties may have with respect to the subject matter of this Franchise.

SECTION 25 - NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or any agency or employment relationship between the parties, and neither party is authorized to nor shall either party act toward any third parties or to the public in any manner which would indicate any such relationship with the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____ day of _____, 2014.

COMMUNITY CABLE CORPORATION

d/b/a NORTH PENN VIDEO

By: _____

Brian J. Ketchum

VP/GM

Town of Big Flats

By: _____

Ed Fairbrother

Town Supervisor

STATE OF NEW YORK)

) ss:

COUNTY OF)

On _____, 2014 before me, the undersigned personally appeared _____, The _____ of North Penn Video, personally known to me or proved to me, on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)

) ss:

COUNTY OF CHEMUNG)

On _____, 2014, before me, the undersigned personally appeared EDWARD FAIRBROTHER, Supervisor for the Town of Big Flats, personally known to me or proved to me, on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

PROPOSED RESOLUTION NO. 04-102214
A RESOLUTION TO APPROVE THE 2014 BUDGET TRANSFERS
AND AMENDMENTS FOR THE GENERAL FUND, HIGHWAY, AND
WATER DISTRICT #1, #2, #3 & #4

Resolution by:
Seconded by:

WHEREAS a memorandum was received from the Bookkeeper, dated October 16, 2014, requesting authorization for Budget transfers and amendments, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Bookkeeper to fulfill the following Budget Transfers and Amendments:

General Fund- Transfers

Please authorize a budget transfer due to overspent budgets:

To Historian-CE-A.7510.4	100	
Refuse & Garbage-CE-A8160.4	200	
From Hosp. & Dental Ins.		300

Amendment:

Please authorize a budget amendment to the 2014 General Fund budget due to additional road and capital improvements in the Highway Dept.

Increase Appropriations-A.0960	573,512
Increase Transfers to Other Funds. -CE-A. 9901.9	573,512
Increase appropriated Fund balance A.0599	573,512

Highway Budget Amendment

Please authorize to amend the 2014 Highway Fund budget due to additional road and capital improvements work and over-budget accounts.

Increase Estimated Revenues--D.0510	573,512
Increase Interfund Transfers-- D.5031	573,512

Increase Appropriations-D.0960	573,512
Increase General Repairs Street Maint. -CE-D.5112.4	321,300

Increase Machinery & Equipment- CE-D.5130.2	252,212
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Water District #1, 2, & 3

Please authorize a budget transfer due to repairs cost on a recent water main break on Chambers Road.

To: Transmission & Dist.-CE-S18340.4	10,000
Transmission & Dist.-CE-S28340.4	11,000
Transmission & Dist.-CE-S38340.4	4,000
From: Hospital & Medical Ins.—S1.9060.8	10,000
Hospital & Medical Ins.—S2.9060.8	11,000
Hospital & Medical Ins.—S3.9060.8	4,000

Water District #4

Please authorize a budget transfer due to overspent budget items.

To: S of S Pwr. & Pump-CE -S4.8320.4	900
From: Administration-PS-S4-8310.01	500
From: Hospital & Medical Ins.—S4.9060.8	400

CARRIED: AYES:

NAYS:

ABSENT:

PROPOSED RESOLUTION NO. 05-102214
A RESOLUTION TO APPROVE THE ABSTRACT OF AUDITED VOUCHERS

Resolution by:

Seconded by:

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for October 2014, vouchers 4003845 – 4003959 and order the bills paid, when in funds, for the following:

GENERAL FUND	\$ 852,359.68
HIGHWAY FUND	\$ 339,674.57
SEWER DISTRICT#1	\$ 509.27
WATER DISTRICT #1	\$ 15,674.97
WATER DISTRICT #2	\$ 16,394.84
WATER DISTRICT #3	\$ 6,787.27
WATER DISTRICT #4	\$ 918.33
LIGHTING DISTRICT	\$ 419.55
TRUST & AGENCY	\$ 1,819.32

CARRIED: AYES:

NAYS:

PROPOSED RESOLUTION NO.06-102214
A RESOLUTION TO APPROVE A LEASE WITH EMPIRE ACCESS
CORPERATION OF THE HIGHWAY SUPERVISOR'S FORMER OFFICE AT THE
BIG FLATS MUNICIPAL CAMPUS

Resolution by:
Seconded by:

WHEREAS, Empire Access Corporation is desirous of obtaining leased space from the Town of Big Flats in the Highway Supervisor's former office located at the Town of Big Flats Municipal Campus which said leased space will be used to house the various electronic equipment needed for the operation of a fiber optic network being installed in the Town of Big Flats; and

WHEREAS, negotiations have been had between the Town Supervisor, the Town Attorney and Empire Access Corporation that have led to the following proposed lease:

"LEASE AGREEMENT

This Lease Agreement (the "Lease"), made effective as of November 1, 2014 (the "Effective Date") by and between The Town of Big Flats, a New York municipality, with offices located at 476 Maple Avenue, Big Flats, New York 14814 ("Landlord"), and EMPIRE ACCESS CORPORATION, a New York corporation, with an office at 34 Main St., Prattsburgh, New York 14873 ("Tenant").

ARTICLE 1: PREMISES AND TERM

Section 1.01 The Premises.

Landlord hereby leases to Tenant, upon the terms, covenants and conditions set forth in this Lease, certain real property and all improvements constructed thereon, currently known and described as the Highway Supervisor's Office located at The Big Flats Municipal Campus in the Highway Building Office in that building (the "Building") located at 476 Maple Avenue, Big Flats, New York as shown on the drawing attached hereto as Exhibit A (the "Premises") together with the right to use in common with others entitled thereto, all common areas and amenities available at or related to the Building including any lobbies, walks, driveways and parking areas serving the Building and the Premises. The Landlord will provide clean office space with 7x24 hour access, no more 60 amps of AC power, access to the building for multiple fiber entrances, fiber cross connects to other fiber carriers, HVAC and a backup generator (which is already available). If more than 60 amps is required and an upgrade is needed the Tenant shall pay for the upgrade as a price to be negotiated. Prior to the Commencement Date, the Landlord shall, at its sole cost and expense, undertake the work identified on Exhibit B as "Landlord's Work" in accordance with the specifications set forth on Exhibit B and otherwise in good and workman like manner. Tenant shall be permitted to undertake,

at its sole cost and expense, that work identified on Exhibit B as "Tenant's Work", in accordance with the specifications set forth on Exhibit B and otherwise in good and workman like manner.

Section 1.02 Term.

The term of this lease (the "Term") shall be for a period of five years, commencing on November 1, 2014 (the "Commencement Date"), and ending on November 1, 2019 or until the Term shall sooner cease as herein provided ("Termination Date").

ARTICLE 2: USE

Tenant shall use the Premises for uses related to its business, including without limitation, for the location and storage of its telecom equipment, use by its employees, contractors, customers and invitees, for general office use and storage use, and other uses related thereto. Any change or deviation from that use shall only be made with the written consent of the Landlord, which consent shall not be unreasonably withheld. Tenant and Tenant's invitees, employees and customers shall have the non-exclusive right to use all parking areas, access roads, driveways, sidewalks and other common areas in and/or around the Building and Premises.

ARTICLE 3: RENT

Section 3.01 Rent.

Tenant hereby agrees to pay to Landlord annual Rent of \$2400 for the Premises during the Term in equal monthly installments of \$200.00 . Each monthly installment of Rent is to be paid in advance, on or before the 1st day of each and every month during the Term, with the first such payment to be made at Lease signing. Tenant shall pay the Rent without offset or deduction and without previous demand at the offices of the Landlord as set forth in Article 18 or at such other place at which Landlord shall have given Tenant written notice. Landlord's acceptance of a partial payment of rent does not constitute an accord and satisfaction or a waiver of Landlord's right to the balance of rent due and owing for such month, it is merely a partial payment on account.

Section 3.02 No Obligation to Pay Additional Rent; Maintenance.

(a) The Rent described in Section 3.01 includes all amounts for common area maintenance, real estate taxes, insurance, and similar charges. Accordingly, Tenant will have no obligation to pay or otherwise reimburse Landlord for any common area maintenance costs, real estate taxes, insurance, or similar charges.

(b) Landlord, at its sole cost and expense, shall keep the Building and all common areas serving the Building and the Premises in a good state of condition and repair and

shall pay, when due and at its sole cost and expense, all real property taxes; lawn and landscaping; paving, repaving and striping of the parking area and access roads; snow removal; refuse and recycling; water and sewer charges; and Landlord's property and liability insurance affecting the Premises.

(c) Landlord shall, at its sole cost and expenses, repair and maintain the structural components of the Premises, and the common areas and the mechanical systems of the Building, including but not limited to the roof, exterior walls (including windows), HVAC, plumbing and electrical systems; fire safety systems, common areas including lobbies, parking areas, curbs and walks. In addition, Landlord shall make all other repairs and perform all other maintenance required or needed at the Premises or in the Building including but not limited to maintenance of all non-structural elements of the Building and Premises, landscaping, parking lots (including lighting), and removal of trash from the designated dumpsters in appropriate receptacles, and keeping the sidewalks, driveways and parking areas free of snow, ice and debris.

(d) Tenant shall be responsible for cleaning the interior of its Premises. Landlord will pay for the cost of all gas and electricity supplied to the Premises.

Section 3.04 Late & Interest Charges.

Landlord shall have the right to impose a late charge of 5% of the Rent due for any installment of Rent not received by Landlord within five (5) business days after it is due ("Late Charge"). A \$100 fee will be due for any check returned to Landlord from bank (in addition to late fee).

ARTICLE 4: INSURANCE

Section 4.01 Tenant's Coverage.

(a) Tenant, at its sole cost and expense, shall keep the improvements located on the Premises and owned by Tenant, including all of Tenant's fixtures and equipment in the Premises, insured during the Term against loss or damage by fire or other casualty, with extended coverage, and such other insurable hazards and in such amounts and with such deductibles as Landlord reasonably determines to be appropriate, but in no event less than full replacement value. Such policy shall name the Landlord and any lender of Landlord as additional insureds, and shall contain the proper co-insurance provisions to prevent Tenant from being a co-insurer.

(b) Tenant shall also be responsible for purchasing and maintaining at its expense public liability insurance insuring Tenant against claims of bodily injury to, or the death of, any person and for injury to, or destruction of, any property; and workers compensation insurance.

(c) The limits of liability of such insurance shall be not less than One Million and 00/100 Dollars (\$1,000,000.00) for injury (or death) caused to any one person, not less than One Million and 00/100 Dollars (\$1,000,000.00) for injury (or death) to more than one person arising from any one accident, and not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) with respect to damage to property. Said policy shall name Landlord and Landlord's lender as additional insureds and contain a clause that the insurer may not cancel or change the insurance coverage limits without first giving Landlord thirty days prior written notice, except cancellation for nonpayment of premium, in which case only ten days prior written notice shall be required. Such insurance shall be written by one or more companies qualified to do business in New York State with general policy holders rating of not less than "A" as currently rated by A.M. Best Co., Inc.

(d) The insurance required by Section 4.01(c) above shall be primary insurance and the insurer shall be liable for the full amount of the loss up to and including the total limit of liability as set forth in the declarations without the right of contribution from any other insurance coverage held by Landlord.

(e) Landlord may maintain a policy of public liability and property damage insurance against liability for injury to persons and/or property (and death) of any person or persons in or about the Property.

(f) Certificates of such insurance coverage shall be delivered to the Landlord on or before the Commencement Date (and prior to taking possession of the Premises), and thereafter, prior to the expiration of any certificate.

(g) In the event that Tenant shall not have delivered to Landlord a policy or certificate evidencing the required insurances within fifteen (15) days prior to the Commencement Date and/or fifteen (15) days prior to the expiration of any policy and after notice and opportunity to cure pursuant to Section 11 herein, Landlord may, in addition to any other remedies it may have under this lease, obtain such insurance as it may reasonably require to protect its interest, and the cost for such policies shall be paid by Tenant to Landlord upon demand, plus a fifteen percent (15%) administrative charge.

Section 4.02 Restriction on Tenant's Activities.

(a) Tenant shall not conduct or permit to be conducted any activity, or place any equipment in or about the Premises, which will in any way invalidate any insurance coverage or increase the rate of insurance on the Premises or any part of the Premises. If any invalidation of coverage or increase in the rate of insurance is stated by any insurance company to be due to any activity, or equipment of, or permitted by, Tenant in or about the Premises, such statement shall be conclusive evidence that the invalidation of coverage or increase in rates is due to such activity or equipment and

Tenant shall immediately cease to conduct or permit to be conducted such activity or remove such equipment. In the case of an increase in insurance rates, Tenant shall be liable for the amount of the increase and, if applicable, shall reimburse Landlord upon demand, as Additional Rent.

(b) Neither Tenant nor Tenant's agents or contractors shall, without Landlord's prior written consent, which consent may be withheld or conditioned within Landlord's sole and absolute discretion, keep on or around the Premises for use, handling, transport, disposal, treatment, generation, storage, or sale, any of the following: hazardous materials, hazardous substances, toxic wastes, toxic substances, pollutants, petroleum products, aboveground or underground tanks, oils, pollution, asbestos, PCB's, materials, or contaminants, as those terms are commonly used or as defined by federal, state, and/or local law or regulation related to protection of health or the environment, including, but not limited to, the Resource Conservation and Recover Act (RCRA) (42 U.S.C. sec. 6901, et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. sec. 9601, et. seq.); the Toxic Substance Control Act (15 U.S.C. sec.2601, et. seq.); the Clean Water Act (33 U.S.C. sec. 1251 et. seq.); and the Clean Air Act (42 U.S.C. sec. 7401 et. seq.) ("Environmental Laws"); and as any of the same may be amended from time to time, and/or by any rules and regulations promulgated thereunder (collectively referred to as "Hazardous Substances"), and/or is subject to regulation by any federal, state, or local law, regulation, statute, ordinance, or management plan. Additionally, in the event that Tenant shall have any materials requiring an MSDS registration, copies of such forms shall be forwarded to Landlord immediately.

Section 4.03. Landlord's Coverage.

Landlord shall maintain, throughout the Term of this Lease, insurance covering the Building, including the Premises and leasehold improvements, in an amount equal to 100 percent of the reasonably estimated replacement cost thereof, against the perils of fire, extended coverage, vandalism and malicious mischief and sprinkler leakage.

ARTICLE 5: ALTERATIONS, IMPROVEMENTS, CONSTRUCTION ALLOWANCE

Tenant shall make no alterations or additions in, upon, or to the Premises, or any part thereof, without the prior written consent of the Landlord, which consent shall not be unreasonably withheld or delayed. All of the improvements constructed upon the Premises, excepting "trade fixtures" installed by the Tenant at the Tenant's expense, shall at the expiration of the Lease or any extension term, become the property of the Landlord. Provided Tenant is not in default at the time, Tenant may remove any trade fixtures installed at its expense provided that the Tenant shall repair any damage caused by the removal of such items to their original conditions existing as of the Commencement Date. Tenant hereby indemnifies Landlord for any damage to the

Premises caused by any improvements to the Premises made by Tenant, its agents, employees or contractors employed by Tenant.

Section 5.01 Improvements.

Notwithstanding anything contained herein to the contrary, all trade fixtures, business equipment, supplies, inventory, signs, and other removable personal property installed in or on the Premises by Tenant at its expense ("Tenant's Property") remains the property of Tenant and may be removed by Tenant from time to time during the Term of the Lease and Tenant repairs any damage occasioned by the removal of Tenant's Property.

Section 5.02 Signs.

Tenant shall have the option to place a sign upon the Premises, at its expense, indicating Tenant's office location, to the extent permitted by local law and/or ordinance. Such sign shall be constructed and placed in accordance with local municipal rules, regulations and ordinances. All signage must receive Landlord's prior written approval for design, dimensions, colors and placement.

ARTICLE 6: INDEMNIFICATION

Section 7.01. General Indemnification.

Tenant shall defend, indemnify and hold harmless the Landlord, its officers, agents, representatives and employees from and against any and all claims, actions, damages, liability and expense (including reasonable attorney's fees) in connection with loss of life, personal injury and/or damage to property to the extent arising: (i) from or out of any occurrence in, upon or at the Premises; (ii) from or out of the occupancy or use by Tenant of the Premises, or any part thereof, or any breach by Tenant in the performance or observance of its covenants or obligations under this Lease; (iii) from or out of any negligent act or omission of Tenant, its agents, contractors, employees, lessees or concessionaires.

Landlord shall indemnify and hold Tenant harmless from and against all costs, damages, claims, liabilities and expenses (including reasonable attorney's fees) suffered by or claimed against Tenant, to the extent arising out or resulting from (i) any negligent act or omission of Landlord, its employees or agents, or (ii) any breach by Landlord in the performance or observance of its covenants or obligations under this Lease.

Section 7.02 Environmental.

Landlord represents that the Premises will be delivered to Tenant free of all hazardous materials. If Landlord is ordered by governmental authorities to remove any hazardous materials, Landlord shall have the sole responsibility of complying with such orders and Landlord shall bear the sole costs in connection therewith. If any hazardous materials

which existed on or about the Premises prior to the Commencement Date are discovered, Landlord shall bear the sole cost and responsibility of removing said hazardous materials and shall indemnify, defend and hold Tenant harmless from and against any and all costs and/or damages resulting from the existence of such hazardous materials (including but not limited to reasonable investigation and clean-up costs, reasonable attorneys' fees and expenses, consultants fees and court costs).

ARTICLE 7: COMPLIANCE WITH LAWS

Section 8.01 Compliance.

As of the Commencement Date, Landlord represents to Tenant that the Building (including the Premises and the parking lot adjacent to the Building) is in full compliance with all applicable laws, ordinances, codes, rules, regulations, orders and other lawful requirements associated with construction, operating, use and maintenance of the Building, including the Premises, for Tenant's permitted uses herein.

From and after the Commencement Date, Tenant, at its expense, shall comply with all requirements of all laws, orders, ordinances, rules and regulations of federal, state, county and municipal authorities and with any direction of any public officer or officers, pursuant to law, and with the requirements of the Board of Fire Underwriters or similar body, whether the above are in effect as of the execution of this Lease or are hereinafter enacted, which are applicable to the Tenant's use of the Premises.

Section 8.02 Contest.

Tenant shall have the right, at its own expense, to contest or review by appropriate legal or administrative proceedings the validity or legality of any law, order, ordinance, rule, regulation, direction or certificate of occupancy and during such contest Tenant may refrain from complying therewith, provided that Tenant shall not undertake such contest unless it: (a) notifies Landlord of its intention to do so; and (b) furnishes such reasonable indemnity to Landlord as Landlord shall determine to be reasonably necessary to protect its interests.

ARTICLE 8: CONDEMNATION

Section 9.01 Condemnation Award.

In the event that the Premises, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain, Landlord shall be entitled to collect from the condemnor the entire award. Tenant shall retain its right to a separate award for its trade fixtures and any relocation expenses. Tenant agrees to execute all further documents that may be appropriate to facilitate collection by Landlord of its awards.

Section 9.02 Taking of Materially All.

If, at any time during the Term, title to the whole or materially all of the Premises shall be taken by exercise of the right of condemnation or eminent domain or by agreement between Landlord and those authorized to exercise such right, either party may terminate this Lease upon written notice to the other party, and such Lease shall expire on the date title vests in the condemnor and the Rent shall be apportioned and paid only to such date. For the purposes of this Article 9, "materially all of the Premises" shall be taken if the portion of the Premises not so taken cannot, in the reasonable opinion of Landlord or Tenant, be so repaired as to be suitable for the conduct of Tenant's use in substantially the same manner as conducted on the Premises immediately prior to the taking.

Section 9.03 Partial Taking.

If, at any time during the Term, title of any portion of the Premises shall be taken in the manner described in Section 9.02, but the portion taken is less than materially all of the Premises, this Lease shall continue, but the Rent thereafter payable by Tenant shall be apportioned and reduced from the date of the partial taking.

ARTICLE 9: ASSIGNMENT AND SUBLETTING

Tenant may not assign this Lease or sublet the Premises in whole or in part or otherwise transfer or encumber its leasehold estate without the prior written consent of Landlord, which consent will not be unreasonable withheld. Upon any permitted assignment, subletting, transfer or encumbrance, Tenant shall continue to remain primarily liable to Landlord for the full and faithful performance of all of Tenant's covenants and obligations under this Lease. Notwithstanding the foregoing, Tenant shall be permitted to assign this Lease without the necessity of obtaining the Landlord's consent (i) to any affiliate, subsidiary or parent company of Tenant, and (ii) to any third party that acquires all or substantially all of the Tenant's business operations and/or assets, whether by stock sale, asset sale, merger, consolidation or otherwise.

ARTICLE 10: DEFAULT

Section 11.01. Events of Default; Remedies.

If Tenant shall fail to:

- (i) pay when due any part of the Rent or any other sum required to be paid by Tenant hereunder, and if such failure is not cured by Tenant within ten (10) days after Tenant's receipt of a written notice from Landlord specifying same; or
- (ii) perform any other obligation of Tenant set forth in this Lease, which failure is not cured by Tenant within thirty (30) days after Tenant's receipt of written notice from Landlord specifying same (provided that if such failure cannot be reasonably cured within such thirty (30) day period, and if Tenant shall have promptly commenced to cure

same within such thirty (30) day period, the time for such cure shall be reasonably extended); then, and in such event, Landlord, in addition to all other rights or remedies provided for by law, shall have the right to re-enter the Premises after ten (10) days written notice and to remove all persons and property located therein, and to store any such property in a public warehouse or elsewhere at the cost of and for the account of Tenant.

Upon any such re-entry, Landlord shall have the right to make any reasonable repairs, alterations, or modifications to the Premises, which Landlord, in its sole discretion, deems reasonable and necessary. After such entry, Landlord shall have the option to terminate this Lease or, without terminating this Lease, to re-let the Premises at such rent and upon such conditions and for such a term, whether less than or greater than the unexpired portion of the Term of this Lease, as Landlord deems reasonable and necessary. Tenant shall pay to Landlord, as soon as determined, the reasonable costs and expenses incurred by Landlord in such re-letting, including reasonable brokerage and legal fees and the reasonable costs and expenses incurred by the Landlord, in making repairs, alterations or modifications to the Premises necessary to re-let the Premises. All sums received by Landlord from such re-letting shall be applied first to the payment of all costs incurred in said re-letting, including but not limited to reasonable brokerage and legal fees, second to the payment of the costs of any repairs, alteration or modification to the Premises necessary to re-let the Premises, third, to the payment of any indebtedness of Tenant arising out of this Lease, including rent due and owing, and unpaid, and the balance, if any, shall be held by Landlord and applied in payment of future rent, if such future rent may become due and payable. Should the amounts applied towards payment of the rental obligation during any month be less than the rent agreed to be paid during said month by Tenant, this deficiency shall be calculated and paid monthly. No such re-entry or taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate the Lease. Notwithstanding any such re-letting without termination, Landlord may at any time thereafter during the Term of this Lease elect to terminate this Lease by virtue of such previous default by Tenant. Landlord may elect to terminate this Lease and recover from Tenant any damages incurred by reason of such default, including the costs of recovering the Premises, reasonable attorneys fees and the then excess, if any, of the rent due pursuant to the provisions of this Lease over the then reasonable rental value of the Premises for the balance of the stated term, which amount shall become immediately due and payable by Tenant to Landlord, less any sums received by Landlord from re-letting during the balance of what would have been the term hereunder. Such termination shall be effective at the expiration of five (5) days from the time of receipt by Tenant of Landlord's written notice to terminate.

ARTICLE 11: LIENS

Tenant shall keep the Premises free and clear of any liens and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of the Tenant. In the event any lien is recorded, Tenant shall discharge such lien within fifteen (15) days of recording, or, if Tenant desires to contest any lien then Tenant may bond the same. In the event Tenant shall fail to pay any lien claim when due or shall fail to bond it, then Landlord shall have the right, but not the obligation, to expend all sums necessary to discharge the lien claim. Tenant shall pay as Additional Rent, when the next rental payment is due, all sums expended by Landlord in discharging any lien, including reasonable attorney's fees and costs, plus interest, calculated at 2% per month.

ARTICLE 12: RIGHT TO PERFORM

Tenant covenants and agrees that, if Tenant shall at any time fail to make any payment, or perform any other act on its part to be made or performed under this Lease, Landlord may, but shall not be obligated to, after notice and opportunity to cure as set forth in Section 11 to Tenant, and without waiving or releasing Tenant from any obligation of Tenant under this Lease, make such payment or perform such act to the extent Landlord may reasonably deem desirable. Tenant shall pay when the next rental payment is due, all sums expended by Landlord, plus interest, calculated at 2% per month.

If Landlord defaults in the performance of any duty or obligation hereunder and such default continues unremedied for a period of thirty (30) days following Landlord's receipt of written notice from Tenant to Landlord, then Tenant shall have the right to cause the Landlord's default to be cured and to recover from Landlord the reasonable costs and expenses incurred by Tenant in curing Landlord's default. If Landlord doesn't pay or reimburse Tenant within thirty (30) days of Tenant's request, Tenant shall, in addition to any other rights and remedies available at law, be permitted to offset any amounts owed by Landlord against Rent and other charges due from Tenant hereunder. In addition, if the nature of Landlord's default is such that it cannot reasonably be cured within thirty (30) days after written notice, then the time permitted for Landlord to cure the default shall be extended as necessary to permit the cure to be accomplished, if Landlord promptly commences the cure after receiving written notice from Tenant and thereafter diligently pursues the cure to completion.

ARTICLE 13: LANDLORD'S RIGHT TO ENTER PREMISES

Section 14.01 For Maintenance.

Landlord shall have the right to enter the Premises upon at least 24 hours prior written notice to Tenant during ordinary business hours, or at any time in case of emergency, for the purpose of inspecting the general condition and state of repair of

the Premises, to make any necessary repairs or alterations, and to show the Premises to any prospective purchaser or mortgagee.

Section 14.02 For Re-let.

Landlord and its authorized agents shall have the right to erect on the Premises a customary sign advertising the Premises for lease and the right to enter the Premises during the last nine (9) months of the Term or any extended Term upon at least 24 hours prior notice to Tenant and during ordinary business hours for the purpose of showing the Premises to prospective tenants.

ARTICLE 14: ESTOPPEL; SUBORDINATION

Section 15.01 Estoppel Certificates.

Tenant agrees that, at any time and from time to time, upon ten (10) days prior written request by Landlord, Tenant will execute, acknowledge and deliver to Landlord a statement in writing stating that this Lease is unmodified and in full force and effect (or, if there have been modifications, stating the modifications and that this Lease as so modified is in full force and effect), the dates to which the Rent has been paid and whether Landlord has defaulted in the performance of any of its obligations under the terms of this Lease.

Section 15.02 Subordination and Non-Disturbance.

Notwithstanding Article 19, this Lease and the rights of Tenant under this Lease are subject and subordinate at all times to any present or future mortgage in force against the Premises ("Mortgage"). The rights of Tenant under this Lease are also subject and subordinate at all times to all renewals, modifications, consolidations, replacements and extensions of any Mortgage. This paragraph shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute promptly any certificate that Landlord may request. Upon request, Landlord will use commercially reasonable efforts, at Tenant's expense, to obtain a standard non-disturbance agreement from its current and all future lenders which will protect Tenant's tenancy provided that Tenant is not in default hereunder.

ARTICLE 15: INVALIDITY OF PARTICULAR PROVISIONS

If any term of this Lease, or the application thereof, to any person, firm or corporation or to any circumstance, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons, firms or corporations or to circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE 16: FORCE MAJEURE

In the event that either Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials (including energy), power, casualty, inclement weather, governmental laws, orders or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing the work or doing the acts required by this Lease, the time for performance of any such act shall be extended for a period equivalent to the period of the delay.

ARTICLE 17: NOTICES

All notices, demands and requests which may or are required to be given by either party to the other shall be in writing and either delivered personally, or sent by (i) facsimile with copy by first class mail, or (ii) certified mail return receipt requested, postage prepaid, addressed:

if to Tenant after Commencement Date:

Tom Prestigiacomo
334 Main St.
Prattsburgh, NY 14873

if to Landlord:

Town Supervisor
Town of Big Flats
476 Maple Ave.
Big Flats, NY 14814

or at any such other address as the party to receive such notice may from time to time indicate in writing to the other party. Notice shall be deemed to have been given, if delivered personally or by facsimile, on the date delivered, or if mailed by certified mail, on the date three (3) days after mailing.

ARTICLE 18: QUIET ENJOYMENT

Landlord covenants that if and as long as Tenant pays the Rent and all additional payments reserved by this Lease, and performs all of the covenants and conditions

hereof, Tenant shall quietly enjoy the Premises without hindrance or molestation by Landlord, subject to the terms of this Lease

ARTICLE 19: SURRENDER

Section 20.01 Timely Surrender.

On the last day of the Term or any extended Term, or any earlier date of termination of this Lease, Tenant shall peaceably surrender the Premises in good order, condition and repair. All alterations, additions, improvements and fixtures made by Tenant upon the Premises shall remain upon and be surrendered with the Premises. Tenant shall remove all property of Tenant, except Tenant shall not be required to remove the Tenant Improvement, and failing to do so, Landlord may cause all of the said property to be removed at the expense of Tenant and Tenant agrees to pay all reasonably necessary costs and expenses thereby incurred. If, as the sole result of the removal of the Tenant's property, any portion of the Premises or of the building of which they are a part are damaged, the Tenant shall pay to the Landlord the reasonable cost of repairing such damages unless due to the negligence of the Landlord, its agents, servants, employees and contractors. The Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease.

Section 20.02 Damages to Premises.

If the Premises are so damaged by fire, other casualty, acts of God or the elements (a "Casualty") so that they cannot be restored or made suitable for Tenant's business needs within 180 days from the date of the Casualty ("Substantial Damage"), either Landlord or Tenant may terminate this Lease by written notice given to the other within 180 days after the date of the Casualty.

If this Lease is not terminated as provided above, then Landlord shall, at its sole cost and expense, restore the Premises as soon as practical to the condition existing prior to the Casualty event. The Rent shall be abated from the date of the occurrence until repairs by the Landlord are completed or until Tenant again uses the untenable portion whichever occurs first. If only a portion of the Premises is damaged then the Rent will abate proportionately.

Section 20.03 Hold-Over.

In the event that the Tenant shall continue in occupancy of the Premises after the expiration of the Term, such occupancy shall not be deemed to extend or renew the Term of this Lease, but Tenant, at the option of Landlord, shall be deemed to be occupying the Premises as a Tenant from month-to-month upon the covenants, provisions and conditions herein contained insofar as the same are applicable to a month-to-month tenancy at 150% of the rental rate in effect during the last lease year of the Term, pro-rated and payable for the period of such occupancy.

ARTICLE 20: COMMISSIONS

Landlord and Tenant represent to each other that it has not contacted or engaged a real estate broker in connection with this Lease who is entitled to a commission on account of this Lease. If the representation in the preceding sentence is contrary to fact, the party making the misrepresentation shall indemnify, defend and save the other party harmless from any claims, loss or liability therefor.

ARTICLE 21: TRANSFERS BY LANDLORD

The term "Landlord" as used in this Lease, so far as covenants or agreements on the part of Landlord are concerned, shall mean the owner or owners of Landlord's interest in this Lease at the time in question and, in the event of any transfer of such interest, Landlord herein named (and in case of any subsequent transfer, the then transferor) shall be automatically freed and relieved, from and after the date of transfer, of all personal liability from events which occur after the date of transfer. Any release of Landlord under this Article 21 shall become effective only at such time as the terms, covenants and conditions of this Lease bind Landlord's transferee. Landlord shall pay over to Landlord's transferee any prepayment or overpayment of Rent made by Tenant prior to assignment.

ARTICLE 22: EXTENSION OF TERM

Tenant shall have an option to extend this Lease Agreement for two (2) periods of five (5) years, provided that Tenant has fulfilled all its obligations and is not then in default under this Lease Agreement and further provided that Tenant shall have given to Landlord written notice of its intention to renew no later than one hundred eighty (180) days before the Termination Date. The renewal terms of this Lease shall be on the same terms and conditions as the original Agreement except that the annual Rent during the renewal Term shall increase by 2% per year of the annual Rent due during the last year of the Term then ending.

ARTICLE 23: ENTIRE AGREEMENT

This Lease contains all of the agreements of the parties with respect to the subject matter hereof and supersedes any prior agreements, oral or written, with respect to the subject matter hereof. This Lease may be amended only by subsequent written agreement signed by both the Landlord and Tenant.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date and year first above written.

LANDLORD:

By: _____

Name: Edward Fairbrother

Title: Town Supervisor

TENANT:

EMPIRE ACCESS CORPORATION

By: _____

Name:

Title:

AND WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6 NYCRR, Part 617.5(c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor sign this lease agreement with Empire Access Corporation as set forth above.

CARRIED: AYES:

NAYS:

PROPOSED RESOLUTION NO. 07-102214
A RESOLUTION TO APPROVE A SPECIAL MEETING ON NOVEMBER 12, 2014
AT 4:30 P.M.

Resolution by:

Seconded by:

RESOLVE the Town Board sets a Special Town Board meeting for November 12, 2014 at 4:30 p.m. for the purpose of holding Public Hearings, and approving Resolutions regarding:

- Preliminary 2015 Town Budget
- Elected & Appointed Officials Compensation
- Fire Protection District No. 1 Agreement

CARRIED: AYES:
NAYS:

PROPOSED RESOLUTION NO. 08-102214
A RESOLUTION TO SET A PUBLIC HEARING REGARDING THE 2015
PRELIMINARY BUDGET, AND FOR THE ELECTED & APPOINTED OFFICIALS
COMPENSATION

Resolution by:
Seconded by:

WHEREAS the Tentative Budget has been presented to the Town Board, and

WHEREAS the Town Board has conducted a budget workshop and determined that the Preliminary Budget has been completed, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board accepts the Preliminary Budget as presented and sets a public hearing to allow and consider comments on the Preliminary Budget for 4:30 p.m. on November 12, 2014, and

FURTHER RESOLVED the Elected & Appointed Officials salaries are proposed to be set as follows:

Supervisor	\$ 32,288
Council (4)	\$ 7,004
Town Clerk	\$ 37,713
Tax Collector	\$ 3,075
Town Justices (2)	\$ 20,975
Assessor	\$ 41,474

CARRIED: AYES:
NAYS:

PROPOSED RESOLUTION NO. 09-102214
A RESOLUTION TO APPROVE THE PROPERTY MAINTENANCE SERVICE FEES
FOR 2013 & 2014 TO BE INCLUDED ON THE 2015 TAX BILL

Resolution by:
Seconded by:

WHEREAS the Town Board has received a list of all outstanding delinquent property maintenance services for 2013 and 2014, dated October 14, 2014, and

WHEREAS for environmental review, administration is a Type II action in accordance with SEQRA, 6NYCRR Part 617.5 (c) (20), now

BE IT THEREFORE RESOLVED the Town Board authorizes the 2013 & 2014 delinquent property maintenance fees to be forwarded to the Chemung County Real Property Tax Services for inclusion on the 2015 tax bills.

CARRIED: AYES:
 NAYS:

PROPOSED RESOLUTION NO. 10-102214
A RESOLUTION TO SET A PUBLIC HEARING FOR THE
FIRE PROTECTION DISTRICT NO. 1

Resolution by:
Seconded by:

WHEREAS there is Fire Protection District No. 1 in the Town of Big Flats, and

WHEREAS the Town must enter into an agreement for the purpose of providing fire and emergency response to said District, now

BE IT THEREFORE RESOLVED the Town Board sets a public hearing November 12, 2014 at 4:32 p.m. for the purpose of allowing comments on the proposed Fire Protection District No. 1 agreement with Town & Country Fire Department.

CARRIED: AYES;
 NAYS:

PROPOSED RESOLUTION NO. 11-102214
A RESOLUTION TO APPROVE THE OCTOBER 22, 2014 COMMUNICATION LOG
AS PRESENTED BY THE TOWN CLERK

Resolution by:
Seconded by:

BE IT RESOLVED that the following communications were received, accepted and filed by the Town Clerk of the Town of Big Flats and referred to the appropriate Department Head for information and/or action:

September 16, 2014

Federal "Emergency Management Agency – RE: Letter of Map Revision Floodway Determination Document (Removal). *Referred to: Town Board, Code Department, Assessor, Dept. of Public Works and filed with the Town Clerk.*

October 1, 2014

Southern Tier Central (Regional Planning & Development Board) – RE: Application for the Big Flats Water Department Improvements. *Referred to: Town Board, Water Department, Code Department, Department of Public Works, Assessor, and filed with the Town Clerk.*

October 14, 2014

NYS- ITS – Enterprise Information Security Office – RE: October is National Cyber Security Awareness Month. *Referred to: Town Board, and Town Clerk for filing.*

October 15, 2014

Time Warner Cable – RE: Programming Notice Changes (CNY/JT). *Referred to: Town Board, and Town Clerk for filing.*

CARRIED: AYES:
NAYS:

PROPOSED RESOLUTION NO. 12-102214
A RESOLUTION TO APPROVE THE DELINQUENT CUSTOMERS IN WATER
DISTRICTS #1, #2, #3, & #4 FOR INCLUSION ON THE TAX ROLL

Resolution by:
Seconded by:

WHEREAS the Town Board has received a list of all delinquent water customers for Water Districts #2, #3, and #4, dated October 22, 2014, and

WHEREAS said water customers have been notified that said delinquent bills must be paid by October 29, 2014, and

WHEREAS for environmental review, administration is a Type II action in accordance with SEQRA, 6NYCRR Part 617.5 (c) (20), now

BE IT THEREFORE RESOLVED the Town Board delegates authority, if necessary, to make changes to the proposed delinquent water customers list to the Principal Account Clerk for the Water Department and the Water Systems Supervisor, and

FURTHER RESOLVED the Town Board authorizes the delinquent water customers list as of October 29, 2014 for Water Districts #1, #2, #3, and #4 be forwarded to the Chemung County Real Property Tax Services for inclusion on the 2015 tax bills.

CARRIED: AYES:
 NAYS: