

## **BURLINGTON TELECOM MANAGEMENT AND SALE AGREEMENT**

This BURLINGTON TELECOM MANAGEMENT AND SALE AGREEMENT (together with all Exhibits and Schedules, the "Agreement") is dated as of December 31, 2014, between Blue Water Holdings LLC (together with its successors and assigns, the "Lessor"), and the City of Burlington, Vermont, d/b/a Burlington Telecom (together with its successors and assigns, the "City") (collectively "the parties").

WHEREAS, the City has conveyed the assets of the Telecom System (defined below) to the Lessor, and the Lessor has agreed to lease back the Leased Assets to the City under the Lease Agreement for the City to use the Telecom System to provide phone, internet and cable television service within Burlington under the trade name "Burlington Telecom" and under an existing CPG (defined below) for the Telecom System;

WHEREAS, the parties have agreed that the payments from Revenues (defined below) from the operation of the Telecom System received by the City shall be paid into a separate account and be used to pay the Operating Expenses of the Telecom System and to make the Rental Payments for the use by the City of the Leased Assets; and

WHEREAS, the parties wish to set out the terms for the management of the Telecom System: (a) during the term of the Lease; and (b) if necessary, for a period of time after the termination of the Lease, to allow for continuing operation of the Telecom System until a new owner or new operator can operate the Telecom System pursuant to an amended or replacement CPG.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, and subject to the terms and conditions set forth herein, the parties hereto agree as follows:

### **1. DEFINITIONS.**

1.1. Certain Definitions. Each of the capitalized terms used in this Agreement, unless otherwise expressly defined in this Agreement, shall have the respective meanings set forth in this Section 1.1. Capitalized terms used herein and not otherwise defined shall have the respective meanings given in the Lease.

"Burlington Telecom" means the name by which the City operates the Telecom System.

"City" means the City of Burlington, Vermont.

"City Sales Expenses" means the costs and expenses reasonably incurred by the City in connection with the sale of the Telecom System, such as transfer taxes, legal expenses, recording fees, or brokerage or investment banking fees; provided, however, that any contract between the City and brokerage or investment banks or similar consultants or advisors must first be approved

in writing by Lessor or the fees to be paid in connection with any such contract will not be included within the meaning of City Sales Expenses.

“Commencement Date” means the date when the term of the Lease commences.

“CPG” means the Certificate of Public Good issued by the PSB for the City’s operation of the Telecom System, as amended on or about November 14, 2014.

“Customer Lists” shall have the meaning given in the Lease.

“Deposit Trust Agreement” means the Deposit Trust Agreement dated as of December 31, 2014 by and among the Lessor, the City, and the Trustee, with respect to the deposit of funds from the use and operation of the Telecom System.

“Equipment” shall have the meaning given in the Lease.

“Event of Default” means those events described in Section 16 of the Lease Agreement.

“Event of Non-Appropriation” means the event described in Section 7 of the Lease Agreement.

“Initial Account Balance” means the amount of \$500,000 deposited by the City from Net Revenues in the Operating Account for Burlington Telecom.

“Initial Term” shall have the meaning given in the Lease.

“Intellectual Property” shall have the meaning given in the Lease.

“Inventory” shall have the meaning given in the Lease.

“Lease” or “Lease Agreement” means the lease agreement dated December 31, 2014 between the City and the Lessor.

“Leased Assets” means the Real Property Interests, Equipment, Inventory, Intellectual Property, Customer Lists, billing records and Accounts, System Contracts used in the operation of the System, and the records and information of customers and suppliers required or necessary to operate the Telecom System. The Leased Assets shall include capital additions and improvements to the Telecom System that are paid from Revenues.

“Lessor” means Blue Water Holdings LLC and its successors.

“Lessor Sale Expenses” means the costs and expenses reasonably incurred by the Lessor in connection with the sale of the Telecom System, such as transfer taxes, legal expenses, recording fees, or brokerage or investment banking fees; provided, however, that, during the term of the Lease, any contract between the Lessor and brokerage or investment banks or similar consultants or advisors must first be approved in writing by the City or the fees to be paid in

connection with any such contract will not be included within the meaning of Lessor Sales Expenses.

“MOU” means the Memoranda of Understanding dated July 18, 2008, between Burlington d/b/a/ Burlington Telecom and the City of Burlington Board of School Commissioners providing for use of City School Department property (Exhibits B.1 and B.2 hereto).

“Net Revenues” means the Revenues (excluding (i) the proceeds of the sale or other disposition of the Telecom System and (ii) customer deposits) after deducting the Operating Expenses.

“Net Sale Proceeds” means:

(a) (i) all amounts held in the Revenue Fund, the Operating Account, and any other fund or account held by the Trustee under the Deposit Trust Agreement; and (ii) the gross proceeds of a sale of the Telecom System;

Less:

(b) the following amounts, in the order listed: (i) the then remaining unpaid balance of the original Principal Rental Component (as set forth on Exhibit A attached hereto) and any accrued and unpaid interest; (ii) accrued and unpaid fees of the Telecom Manager (together with interest at the rate of 7% per annum); (iii) any transfer taxes; (iv) City Sale Expenses and Lessor Sale Expenses; and (v) in the event the gross proceeds of the sale exceed an agreed threshold, the Initial Account Balance to be paid to the City.

“Operating Account” means the City’s operating account for Burlington Telecom held at the Merchants Bank and used to pay Operating Expenses.

“Operating Expenses” means the expenses for the operation, maintenance, repair and ordinary replacements properly and directly attributable to the operation or ordinary maintenance of the Telecom System, and includes the rental payments due from the City to the Lessor pursuant to the Sublease Agreement dated of even date herewith between the Lessor, as sublessor, and the City, as sublessee, concerning the real property located at and known as 200 Church Street, Burlington, Vermont. Operating Expenses includes costs and expenses paid from the proceeds of insurance, condemnation or the disposition of property to repair or replace the property from which the proceeds are derived. Operating Expenses do not include the Rental Payments under this Lease. Capital expenditures outside of the ordinary course of business used to expand or improve the Telecom System will be subject to prior approval of the Lessor, approval not to be unreasonably withheld or denied. In the event such expenditures are approved by the Lessor, such capital expenditures shall be considered Operating Expenses. In order to facilitate the approval of capital expenditures outside of the ordinary course, the Lessor may

consent in advance to a range of capital expenditures above those budgeted in the ordinary and necessary course for the benefit of the Telecom System.

“Person” means an individual, partnership, corporation, trust, limited liability company, limited liability partnership, unincorporated association or organization, joint venture or any other entity.

“PILOT” means the payment in lieu of taxes agreement dated July 29, 2008 between the City, through the Chief Administrative Officer, and the Telecom System (Exhibit C hereto).

“PSB” means the Public Service Board for the State of Vermont.

“Principal Rental Component” means the monthly payments of principal set forth in the Rental Payment Schedule and designated as “Principal Rental Component.”

“Prudent Utility Practice” means either (i) any of the practices, methods and acts engaged in or approved by a significant portion of the fiber, cable and telephone telecommunications industry at the time of such practice, method or act or prior thereto, or (ii) any of the practices, methods or acts, which in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expeditious action. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts. Prudent Utility Practice shall also include those practices, methods and acts that are required by applicable laws and final orders or regulations of regulatory agencies having jurisdiction over the subject action.

“Qualified Purchaser” means a Person that has the capability of operating a telecommunications company of size and service similar to Burlington Telecom and reasonably expected to satisfy any statutory criteria in order to obtain a certificate of public good from the PSB. Such Person may be a first-time operator if the Lessor reasonably determines such first-time operator to be able to timely obtain a certificate of public good from the PSB.

“Real Property Interests” shall have the meaning given in the Lease.

“Renewal Term” shall have the meaning given in the Lease.

“Rental Payments” means each payment of rent set forth on each Rental Payment Schedule.

“Revenue Fund” shall have the meaning given in the Deposit Trust Agreement.

“Revenues” means all revenues, rates, fees, charges, rents or other income derived and receipts received by the City from any source in connection with the management and operation of the Telecom System. Without limiting the generality of the foregoing, Revenues include rentals, subscriber charges, the proceeds of grants for limited purposes or of the disposition of

property financed by such grants, payments or reimbursement of capital costs by other Persons pursuant to joint ownership agreements relating to jointly owned facilities, and receipts from disposition of Telecom System assets (except the sale of the Telecom System as provided in Article 3 below), and proceeds of insurance to the extent paid on account of the loss or damage to the Telecom System. Revenues do not include the proceeds of borrowing by the City.

“Rental Payment Schedule” means the Rental Payment Schedule attached as Schedule A to the Lease.

“Sale Date” means the date a definitive purchase and sale agreement is executed for the sale of the Telecom System to a Qualified Purchaser if the closing of such sale occurs on or before the later of (i) 183 days following execution of such purchase and sale agreement and (ii) 30 days following issuance by the PSB of a final order and certificate of public good to such Qualified Purchaser permitting such Qualified Purchaser to operate the Telecom System, which CPG shall not be subject to appeal; provided, however, that such Qualified Purchaser acts reasonably promptly to take all steps necessary to obtain such certificate of public good. If the closing of such sale occurs after the later of such two dates, or if the closing occurs more than 183 days following execution of such purchase and sale agreement and such Qualified Purchaser does not act reasonably promptly to take all steps necessary to obtain such certificate of public good, then the “Sale Date” shall be the date of closing.

“Settlement Agreement” means the Mediated Settlement Agreement entered into January 29, 2014 by and among Citibank, N.A., the City and McNeil Leddy & Sheahan, P.C.

“System” or “Telecom System” means the telecommunication system operated by the City as further described in the Lease.

“Telecom Manager” means Dorman & Fawcett, along with any employees or agents thereof, as the current general manager selected by the City to serve as manager of the Telecom System, or such other qualified manager as may be acceptable to both the City and the Lessor; provided, however, that after an Event of Default that remains uncured or Event of Non-Appropriation the Lessor shall have sole authority to select the Telecom Manager.

“Trustee” means Merchants Bank, or any successor serving as the trustee under the Deposit Trust Agreement.

1.2. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to

this Lease in its entirety and not to any particular provision hereof, and (d) all references herein to Articles, Section, Exhibits and Schedules shall be construed to refer to Articles and Section of, and Exhibits and Schedules to, this Lease.

## **2. OPERATION OF BURLINGTON TELECOM**

2.1. Operation of the System by the City. As provided in the Lease, the City shall contract with the Telecom Manager to operate Burlington Telecom and maintain the Telecom System and make improvements to the same in accordance with Prudent Utility Practice and the requirements of the CPG, consistent with its approved annual operating and capital budgets, and with due consideration for the recommendations of the Burlington Telecom Advisory Board (the "BTAB").

2.2. Telecom Manager Contract. The contract between the City and the Telecom Manager shall require Lessor's prior written approval and shall include the following provisions:

- (a) As of the Commencement Date, all management fees shall be deferred and accrued, with interest accrued at the rate of 7% per annum (without compounding), to be paid at the closing of a sale of the Telecom System from the proceeds of such sale. Out-of-pocket expenses of the Telecom Manager (including, for example, lodging and travel) shall be paid currently as Operating Expenses.
- (b) The City may not amend or terminate the Telecom Manager's contract without Lessor's prior written approval.
- (c) In the event the Telecom Manager's contract is terminated prior to the closing of a sale of the Telecom System, other than as the result of a breach or default by the Telecom Manager in its obligations under such management agreement, prior to a sale of the Telecom System, when both (a) the Telecom System is within 5% of its approved budget for post-debt service cash flow, and (b) the Telecom System has not suffered a decline in revenues for each of the preceding three months (calculated as the average monthly revenues for the past three months in comparison to the average monthly revenues for the most recent twelve-month period), then the Telecom Manager shall: (x) be paid its deferred management fees and accrued interest thereon out of the revenues of Telecom System, and (y) at the closing of a sale of the Telecom System, the Telecom Manager shall be paid from the Net Sale Proceeds a prorated portion of the Telecom Manager's Percentage as set forth below in Section 3.2 (such proration to be based upon time worked compared to time between Commencement Date and the date of the closing of the sale of the Telecom System).

2.3. Financial Reporting. Burlington Telecom shall maintain books and ledgers, including its general ledger, separately from the books and ledgers of the City.

Burlington Telecom shall provide monthly reporting to the Lessor, as set forth in the Deposit Trust Agreement, of its financial results, such reports to include an income statement, with all relevant operating and capital expenses, listed and with adjustments for non-cash expenses, an accounts receivable aging and an accounts payable aging.

Burlington Telecom shall provide quarterly reporting to the Lessor of its financial results, such reports to include an income statement, balance sheet, and statement of cash flows, in each case with a comparison of actual-to-budget for the preceding quarter and year-to-date.

Burlington Telecom shall provide such reports to the BTAB.

Lessor reserves the rights, at any time upon seven days' prior written notice to Burlington Telecom and for any reason: (a) to request additional financial statements and information from Burlington Telecom produced or maintained in the ordinary course or to the extent otherwise reasonably available; and (b) to hold quarterly meetings with the Telecom Manager to discuss Burlington Telecom's ongoing financial performance and the Telecom System's operating performance.

Burlington Telecom shall provide annual audited financial statements for Burlington Telecom's operations (separate from the City's audited financial statements) to the Lessor within 120 days of its fiscal year-end, including income statement, balance sheet, and statement of cash flows.

Any financial reports Burlington Telecom is required to submit to the PSB shall be provided to the Lessor.

2.4. Costs of Operation. The City's costs of operating Burlington Telecom and maintaining the Telecom System, including all employee benefits and other employee-related costs, shall be paid as Operating Expenses.

The City shall only be responsible for operation of the Telecom System from Revenues of the Telecom System and shall not be obligated to use taxes or general fund or other revenues for such purpose under any circumstances.

2.5. Standard of Operation. The parties agree that operation of Burlington Telecom and the Telecom System shall be consistent with the requirements of the CPG, Prudent Utility Practice, and the rights of the parties to find a Qualified Purchaser of the Leased Assets for the future purchase and operation of the Telecom System. The parties further agree that, although Burlington Telecom is a component of the City, the Telecom System shall be operated, as nearly as possible, as if it were an independent entity, acting in a business-like manner and with a principal goal of operational efficiency and service to its subscribers. In furtherance of such agreements and goal, the parties agree that the City shall adopt policies to provide for the following operational efficiencies for Burlington Telecom:

(a) report to the BTAB, which will oversee and advise on the operations of Burlington Telecom;

(b) so long as Burlington Telecom is operating in accordance with budgeted cash flow, allow use of funds in the Operating Account for budgeted line item overspending when, after such line item overspending, the overall cash flow after Rental Payments will remain on budget;

(c) allow for the BTAB to approve the hiring of new employees to replace employees whose employment has terminated prior to payout of vacation time, sick time or other combined time off accruals for the former employee;

(d) allow the BTAB to approve purchases of goods and services within the approved annual budget without requiring a competitive bidding process.

## 2.6. Payments to the City; No Dividends or Distributions.

(a) The City will not assess the Telecom System for any overhead or other general assessment of any kind, and Burlington Telecom will not make any payment of any dividend or distribution to the City other than for actual costs and expenses incurred by the City for the Telecom System. Burlington Telecom will not make any payment to the City, without prior written approval of the Lessor, for City information technology, accounting and finance, Mayor's office, or any other general overhead of any kind or character. To the extent the City desires that Burlington Telecom support any such overhead or general assessments, the amounts thereof shall be deferred and paid to the City at the Sale Date only from the City's Percentage of Net Sale Proceeds as set forth below in Section 3.2.

(b) Notwithstanding the foregoing prohibition: (i) payments in lieu of taxes for real estate and personal property under the existing PILOT agreement in an amount not to exceed \$100,000.00 per year may be paid to the City (as adjusted for increases in municipal and education tax rates and for personal property additions, but not for reassessment of real estate), subject to Lessor's review of the basis for the PILOT fee calculation, (ii) fair rental payments under the existing MOU for use of school department properties in an amount not to exceed \$20,000.00 per year; (iii) costs of conduit access, make ready surveys, and make ready work at the same rate Burlington Electric Department charges for other cable or telecommunication providers; and (iv) payments to City departments for actual costs and expenses of goods and services provided to Burlington Telecom, including Human Resources and Payroll, as may be required under the existing CPG for the City's operation of the Telecom System.

2.7. Inspection Upon Reasonable Notice. Upon reasonable notice, Lessor shall be entitled to enter upon the facilities at which the Leased Assets are located during reasonable business hours to inspect the Leased Assets or observe their use and operation. Such inspection shall be subject to the Lessor following reasonable safety precautions established by the Telecom Manager. Upon reasonable notice, once every twelve (12) months, Lessor shall be entitled to inspect the books and records of Burlington Telecom. The Lessor shall maintain the



confidentiality of all information identified by the Telecom Manager as being the confidential and proprietary business information of the Telecom System, the public disclosure of which could harm Burlington Telecom's competitive interests. The Lessor shall maintain as confidential any information obtained from Burlington Telecom that, under the rules and orders of the PSB, is to be maintained as confidential.

2.8. Operation after Termination of Lease. In the event the Lease terminates for any reason, and a new operator of the Telecom System has not received all necessary approvals from the PSB at the time of such termination, the parties wish to provide for the continued operation of the Telecom System by the City in accordance with the CPG and Prudent Utility Practice.

The City agrees that upon termination of the Lease, if at the time of such termination a successor operator with all necessary approvals from the PSB to operate the Telecom System is not in place to assume operation, the City shall continue to operate the Telecom System and maintain the Leased Assets in accordance with the CPG in order to maintain, preserve and keep the Telecom System in good repair, working order and condition and to continue to provide services to subscribers, and Lessor shall continue to permit the use of Revenues to pay for the Operating Expenses, until the earliest to occur of the following: (i) the Lessor selects a new operator and obtains any and all necessary approvals therefor from the PSB; (ii) the sale of the Telecom System; or (iii) completion of any actions needed or required under the CPG in order for the Lessor and City to cease providing services. In no event shall the City be required to use monies from its general fund for such purpose. During the period after termination of the Lease, while the City continues to operate the Telecom System, Net Revenues shall be paid monthly to the Lessor.

2.9. Right to Replace Operator: Upon termination of the Lease, the Lessor shall have the right to replace the City as the operator of the Telecom System with a new operator (the "New Operator") subject to the approval of the PSB and the issuance of a new certificate of public good for the New Operator as may be required under applicable law. The City agrees to cooperate fully with the Lessor in its efforts to obtain PSB approval and the issuance of a new certificate of public good for the New Operator and specifically will take all actions reasonably requested by Lessor in support such efforts. The City further agrees that, upon termination of the Lease, until a new certificate of public good is issued by the PSB approving a new operator, or completion of any actions needed or required under the CPG in order for the Lessor and City to cease providing services, Burlington Telecom's continuing operation will remain subject to the management terms set forth herein unless otherwise approved in writing by the Lessor. The New Operator may be the Lessor or another Person designated by the Lessor. In such event, the City will undertake to transfer any necessary permits, franchise rights, easements, licenses and rights of way that it holds for the operation of the Telecom System to a New Operator.

2.10 Conditional Approval for Operations. The Lessor may seek conditional approval from the PSB to allow the Lessor to operate the Telecom System to be effective upon the termination of the Lease. The City will reasonably cooperate with the Lessor in such application. Lessor shall undertake to coordinate with the City on any such filing of an application so as to not impair the City's efforts to sell the Telecom System. Any conditional

approval from the PSB shall provide for operation only after termination of the Lease and shall not deprive the City from operation of the Telecom System during the term of the Lease.

2.11. Motor Vehicle Acquisition. Upon not less than 30 days prior written notice from the Lessor, the City shall take all reasonable actions necessary to convey any right, title or interest it may have in any motor vehicles that would constitute "Equipment" under the Lease but for the exclusion of motor vehicles from the definition thereof. Upon such conveyance, such motor vehicles shall constitute "Equipment," be subject to the terms of the Lease and the Lease shall be deemed so amended. It is understood and agreed that any such conveyance from the City shall be on the terms set forth in the Bill of Sale delivered on or about the date hereof, shall be AS-IS and WHERE-IS and subject to all encumbrances with respect to such motor vehicles as of the date of conveyance. Without limiting the generality of the foregoing, it is understood and agreed that (i) the motor vehicles subject to this right are those used by City exclusively for the provision of telecom services through the Telecom System to third-party subscribers, and (ii) certain of the motor vehicles may be, or may in the future be, leased or subject to other encumbrances, and the City makes no warranty as to title to the same.

### **3. SALE OF TELECOM SYSTEM**

3.1. Sale of Telecom System. The Telecom Manager shall undertake commercially reasonable efforts, consistent with Prudent Utility Practice, and with due consideration of the advisory recommendations of the BTAB, to operate Burlington Telecom and build the Telecom System so as to maximize the value and importance to the residents and businesses of the City and adjacent communities, and increase Burlington Telecom's potential sales price. From the beginning of the Commencement Date until the fourth anniversary of the Commencement Date, the City shall have the right to find a Qualified Purchaser to purchase the Telecom System (and the Leased Assets), and the City may direct a sale of the Telecom System (and the Leased Assets) to such Qualified Purchaser. The sale of the Telecom System shall be subject to the Lessor's consent, not to be unreasonably withheld or delayed. In order to facilitate the sale, the Lessor may consent in advance to a sales price or to a particular purchaser.

Upon the City's finding a Qualified Purchaser, the parties shall cooperate to complete the sale of the Telecom System, as soon as practicable, to the Qualified Purchaser selected by the City. Such cooperation shall include making such filings with the PSB to support the sale of the Telecom System to the Qualified Purchaser and submitting testimony in support of the Qualified Purchaser's application for a new certificate of public good from the PSB.

Beginning at the end of the fourth anniversary after the Commencement Date, regardless of whether there has been an Event of Default or Event of Non-Appropriation, the Lessor shall, at its sole discretion, have the right to direct a sale of the Telecom System to a Qualified Purchaser of the Lessor's choice. In such event, the City will cooperate in the Sale of the Telecom System to such Qualified Purchaser as described above.

After a definitive purchase and sale agreement for the sale of the Telecom System is executed, the parties shall use their commercially reasonable efforts to close on the sale as soon as is commercially practicable. Any definitive purchase and sale agreement shall require the

purchaser to (a) submit a petition to the PSB seeking a certificate of public good within 30 days of the signing, (b) promptly respond to discovery requests, if applicable, of the Department of Public Service, (c) take such action to seek approval as soon as commercially practicable and (d) seek to close on the sale as soon as commercially practicable, subject to such scheduling as set forth by the PSB. Such purchase and sale agreement shall provide that closing under such purchase and sale agreement shall be within not more than sixty-six months after the date hereof, unless the Lessor agrees to a longer period of time. The foregoing shall not relieve the parties from their obligations to close on the sale of the Telecom System (and Leased Assets) as soon commercially practicable as set forth above.

3.2. Proceeds from Sale: Upon the closing of the sale of the Telecom System, the City, the Lessor and the Telecom Manager will allocate and distribute the following respective percentages of the Net Sale Proceeds, calculated based upon the Sale Date:

The Sale Date After Commencement Date	Allocation of Net Sale Proceeds		
	Lessor's Percentage	City's Percentage	Telecom Manager's Percentage
0-36 months	40%	50%	10%
37-48 months	55%	35%	10%
48-60 months	65%	25%	10%
After 60 months	80%	10%	10%

The Lessor and the City shall compute the allocation of Net Proceeds pursuant to the forgoing calculations and determine the amount to be paid to the Lessor.

After the forgoing calculations, payment to the Lessor of its allocable percentage of Net Proceeds, payment to the Telecom Manager of its allocable percentage of Net Sale Proceeds, the City shall make the payment from the City's share of the remaining Net Sales Proceeds due to CitiBank N.A. under the Settlement Agreement.

In the event that any sale of the Telecom System is to be paid in installments over time, the parties agree to establish an account, at Merchants Bank, or such other bank selected by the Lessor and the City, to accept the payments and distribute, promptly after receipt, any and all payments received as installments of the Net Sales Proceeds according to the table set forth above with the allocation percentage established at the time of the initial payments of Net Sales Proceeds.

3.3. Sale of Telecom System after an Event of Default: Upon and after an Event of Default, the Lessor shall have the right to immediately offer the Telecom System for sale to any Person as set forth above.

Upon any sale of the Telecom System after an Event of Default that remains uncured, the Lessor shall be entitled to retain 90% of the Net Sales Proceeds with the remaining 10% of Net Sale Proceeds being paid to the Telecom Manager in compensation for deferred management fees.

The parties shall cooperate to complete the sale of the Telecom System to the Person so selected by the Lessor. The City Sale Expenses and the Lessor Sale Expenses shall be paid as provided in Section 1.1 Net Sales Proceeds.

3.4. Sale of Telecom System after an Event of Non-Appropriation: In the Event of Non-Appropriation, the Lease shall be deemed terminated at the end of the then current Initial Term or Renewal Term. If the Lease is terminated in accordance with the Lease, the Lessor shall have the right to immediately offer the Telecom System for sale to a Qualified Purchaser.

Upon any sale of the Telecom System pursuant to this section 3.4 after an Event of Non-Appropriation, the Lessor shall be entitled to retain 90% of the Net Sales Proceeds with the remaining 10% of Net Sale Proceeds being paid to the Telecom Manager in compensation for deferred management fees.

The parties shall cooperate to complete the sale of the Telecom System to the Person so selected by the Lessor. The City Sale Expenses and the Lessor Sale Expenses shall be paid as provided in Section 1.1 Net Sales Proceeds.

#### **4. ASSIGNMENT.**

Notwithstanding any provision in this Agreement to the contrary, Lessor has the right to pledge and/or assign from time to time all of its right, title and interest in this Agreement to Lessor's lender(s) as collateral security for financing extended to the Lessor, and such lender(s) shall have the corresponding right to assign all of Lessor's right, title and interest in this Agreement to third parties upon any financing default by Lessor. Lessor agrees that, without the City's prior consent, the Lessor shall not transfer or convey any ownership interest in the Lessor to any Person that is an operator of a telecommunications system, or an affiliate of an owner or operator of a telecommunications system.

#### **5. NOTICES.**

All notices to be given under this Agreement shall be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been given 5 days subsequent to mailing.

#### **6 SECTION HEADINGS.**

All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

#### **7 GOVERNING LAW.**

This Agreement shall be governed by the provisions hereof and by the laws of the State of Vermont.

**8. EXECUTION IN COUNTERPARTS; ELECTRONIC TRANSACTION.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The parties agree that the arrangement described herein may be conducted and related documents may be stored by electronic means.

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

LESSOR: BLUE WATER HOLDINGS LLC

CITY: CITY OF BURLINGTON  
d/b/a Burlington Telecom

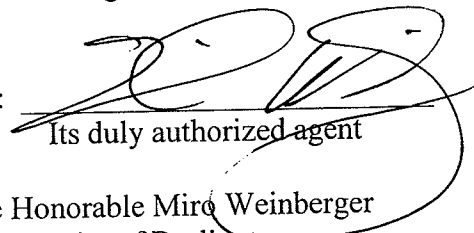
BY: \_\_\_\_\_  
Its duly authorized agent

\_\_\_\_\_  
Printed Name and Title

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

\_\_\_\_\_

\_\_\_\_\_

BY:  \_\_\_\_\_  
Its duly authorized agent

The Honorable Miro Weinberger  
Mayor, City of Burlington

Address:  
City Hall  
149 Church Street  
Burlington, Vermont 05401

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

LESSOR: BLUE WATER HOLDINGS LLC CITY: CITY OF BURLINGTON  
d/b/a Burlington Telecom

BY: Dale Arango  
Its duly authorized agent

Dale Arango  
Printed Name and Title  
Duly Authorized Agent  
Address: King St. Dock  
Burlington, VT  
05401

BY: \_\_\_\_\_  
Its duly authorized agent

The Honorable Miro Weinberger  
Mayor, City of Burlington

Address:  
City Hall  
149 Church Street  
Burlington, Vermont 05401

# Exhibit A

## RENTAL PAYMENT SCHEDULE

The Rental Payments have two components, a Principal Rental Component and an Interest Rental Component. The Remaining Principal Balance of Lease Financing is the amount owing to Lessor after payment of current Rental Payments.

Due Date	Payment #	Principal Rental Component	Interest Rental Component	Total Rental Payment	Remaining Principal Balance of Lease Financing
1/31/2015	1	\$10,873.10	\$35,671.23	\$46,544.33	\$5,989,126.90
2/28/2015	2	14,383.54	32,160.79	46,544.33	5,974,743.36
3/31/2015	3	11,023.25	35,521.08	46,544.33	5,963,720.11
4/30/2015	4	12,232.52	34,311.81	46,544.33	5,951,487.59
5/31/2015	5	11,161.51	35,382.82	46,544.33	5,940,326.08
6/30/2015	6	12,367.11	34,177.22	46,544.33	5,927,958.97
7/31/2015	7	11,301.40	35,242.93	46,544.33	5,916,657.57
8/31/2015	8	11,368.59	35,175.74	46,544.33	5,905,288.98
9/30/2015	9	12,568.69	33,975.64	46,544.33	5,892,720.29
10/31/2015	10	11,510.90	35,033.43	46,544.33	5,881,209.39
11/30/2015	11	12,707.23	33,837.10	46,544.33	5,868,502.16
12/31/2015	12	11,654.88	34,889.45	46,544.33	5,856,847.28
1/31/2016	13	11,724.17	34,820.16	46,544.33	5,845,123.11
2/29/2016	14	14,035.84	32,508.49	46,544.33	5,831,087.27
3/31/2016	15	11,877.32	34,667.01	46,544.33	5,819,209.95
4/30/2016	16	13,063.94	33,480.39	46,544.33	5,806,146.01
5/31/2016	17	12,025.60	34,518.73	46,544.33	5,794,120.41
6/30/2016	18	13,208.29	33,336.04	46,544.33	5,780,912.12
7/31/2016	19	12,175.62	34,368.71	46,544.33	5,768,736.50
8/31/2016	20	12,248.01	34,296.32	46,544.33	5,756,488.49
9/30/2016	21	13,424.81	33,119.52	46,544.33	5,743,063.68
10/31/2016	22	12,400.64	34,143.69	46,544.33	5,730,663.04
11/30/2016	23	13,573.39	32,970.94	46,544.33	5,717,089.65
12/31/2016	24	12,555.06	33,989.27	46,544.33	5,704,534.59
1/31/2017	25	12,629.70	33,914.63	46,544.33	5,691,904.89
2/28/2017	26	15,979.58	30,564.75	46,544.33	5,675,925.31
3/31/2017	27	12,799.79	33,744.54	46,544.33	5,663,125.52
4/30/2017	28	13,961.96	32,582.37	46,544.33	5,649,163.56
5/31/2017	29	12,958.89	33,585.44	46,544.33	5,636,204.67
6/30/2017	30	14,116.85	32,427.48	46,544.33	5,622,087.82
7/31/2017	31	13,119.86	33,424.47	46,544.33	5,608,967.96
8/31/2017	32	13,197.86	33,346.47	46,544.33	5,595,770.10
9/30/2017	33	14,349.49	32,194.84	46,544.33	5,581,420.61
10/31/2017	34	13,361.64	33,182.69	46,544.33	5,568,058.97
11/30/2017	35	14,508.92	32,035.41	46,544.33	5,553,550.05



Due Date	Payment #	Principal Rental Component	Interest Rental Component	Total Rental Payment	Remaining Principal Balance of Lease Financing
12/31/2017	36	\$13,527.33	\$33,017.00	\$46,544.33	\$5,540,022.72
1/31/2018	37	13,607.76	32,936.57	46,544.33	5,526,414.96
2/28/2018	38	16,868.24	29,676.09	46,544.33	5,509,546.72
3/31/2018	39	13,788.94	32,755.39	46,544.33	5,495,757.78
4/30/2018	40	14,924.90	31,619.43	46,544.33	5,480,832.88
5/31/2018	41	13,959.65	32,584.68	46,544.33	5,466,873.23
6/30/2018	42	15,091.09	31,453.24	46,544.33	5,451,782.14
7/31/2018	43	14,132.36	32,411.97	46,544.33	5,437,649.78
8/31/2018	44	14,216.38	32,327.95	46,544.33	5,423,433.40
9/30/2018	45	15,341.01	31,203.32	46,544.33	5,408,092.39
10/31/2018	46	14,392.11	32,152.22	46,544.33	5,393,700.28
11/30/2018	47	15,512.08	31,032.25	46,544.33	5,378,188.20
12/31/2018	48	14,569.90	31,974.43	46,544.33	5,363,618.30
1/31/2019	49	14,656.52	31,887.81	46,544.33	5,348,961.78
2/28/2019	50	17,821.14	28,723.19	46,544.33	5,331,140.64
3/31/2019	51	14,849.60	31,694.73	46,544.33	5,316,291.04
4/30/2019	52	15,957.45	30,586.88	46,544.33	5,300,333.59
5/31/2019	53	15,032.76	31,511.57	46,544.33	5,285,300.83
6/30/2019	54	16,135.75	30,408.58	46,544.33	5,269,165.08
7/31/2019	55	15,218.06	31,326.27	46,544.33	5,253,947.02
8/31/2019	56	15,308.54	31,235.79	46,544.33	5,238,638.48
9/30/2019	57	16,404.22	30,140.11	46,544.33	5,222,234.26
10/31/2019	58	15,497.07	31,047.26	46,544.33	5,206,737.19
11/30/2019	59	16,587.76	29,956.57	46,544.33	5,190,149.43
12/31/2019	60	15,687.83	30,856.50	46,544.33	5,174,461.60

Exhibit B

Attached hereto as B.1 and B.2  
MOUS

MEMORANDUM OF UNDERSTANDING

*Jim Brabson*, Land Records Clerk

This Memorandum of Understanding ("MOU") is made this 18th day of July, 2008, by and between the City of Burlington Board of School Commissioners (hereinafter called the "Board") and the City of Burlington d/b/a Burlington Telecom (hereinafter called "City").

WITNESSETH:

WHEREAS, the City of Burlington owns and the Board operates a school building which is known and designated as the Taft School, which is located at 14 South Williams Street in the City of Burlington; and

WHEREAS, the City desires to utilize approximately 572 square feet of floor space in the basement of the Taft School for equipment for Burlington Telecom to provide telecommunications services to residents and businesses of Burlington;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises hereinafter contained, and other good and valuable consideration, the parties do hereby agree as follows:

1. The Board hereby covenants and promises to make available to the City, and the City hereby hires and licenses from the Board approximately 572 square foot of floor space in the basement of the Taft School for the sole and exclusive use of Burlington Telecom.
2. Retroactive to the 1<sup>st</sup> day of January 2008, the City shall pay an annual fee to the Board equal to \$6.00 per square foot of the floor space occupied by Burlington Telecom. The annual fee shall be increased on the 1<sup>st</sup> day of January of each year thereafter based upon the increase in the consumer price index for all items/all urban consumers (CPI-U).
3. When Burlington Telecom turns a profit, i.e. begins contributing revenues to the General Fund of the City, the Board and the City shall also negotiate in good faith a contribution by Burlington Telecom to the capital costs of maintaining the Taft School building on an on-going basis.
4. The Board and the City shall meet no later than January 1, 2011 to discuss the terms and conditions of this MOU, including the financial status of Burlington Telecom.
5. It is hereby understood and agreed upon that this MOU creates an easement that runs with the land that is granted in perpetuity so as to be forever binding upon the parties hereto and their respective heirs, personal representatives, administrators, successors and assigns. It is hereby understood and agreed that if the Board wishes and is legally authorized to sell the Taft School, and Burlington Telecom's presence in the building creates a detriment to this sale, Burlington Telecom will either vacate the premises upon one hundred twenty (120) days notice or fully reimburse the Board for any and all

diminishment in the purchase price caused by the commitment to allow the continued presence and operations of Burlington Telecom. The Board shall use all best efforts to negotiate the right for Burlington Telecom operations to remain post sale per the terms of this MOU before making a determination that Burlington Telecom must vacate the premises.

6. The City shall comply with all municipal, state and federal rules and regulations in the permitting, construction and maintenance of these buildings. On-going maintenance by the City shall be to the reasonable satisfaction of the Board.
7. The City shall file in its land records an easement plat and "as built drawings" acceptable to the Board with a copy to the Board when the work is completed.
8. This easement shall include the right and obligation of the City to access the property and the building in a reasonable manner so as to minimize to the greatest extent practicable adverse impacts upon the Board's delivery of its educational programs. However, the City may access the property and building affected by this MOU at any time in case of emergency.
9. This MOU shall be governed by the laws of the State of Vermont. It shall be interpreted in accordance with its plain meaning and not construed against either party as the drafter hereof. If any part of this MOU shall be judicially declared null and void the remainder shall be given full force and effect so long as neither the commercial purpose hereof for the City nor the rents to be received by the Board are precluded.
10. No assignment nor subletting of this MOU or any rights hereunder shall be permitted without the advance written permission of the Board.
11. The parties shall each hold the other harmless from any loss or expense to its property as a result of any act or failure to act by the other on the affected property. Each party shall cause the other to be named as an additional insured on its liability and property damage policies to the extent of the respective interests.
12. Each party hereto shall have the right to repair and replace its facilities at the Taft School in the manner specified in paragraph 8 hereof.

In Witness Whereof, the parties hereby execute this MOU by duly authorized representatives as of the day and date first above written.

**CITY OF BURLINGTON BOARD OF  
SCHOOL COMMISSIONERS**

Jeanne Collins  
Superintendent and Duly Authorized Agent

**CITY OF BURLINGTON**

Bob Kiss  
Mayor and Duly Authorized Agent

**ACKNOWLEDGEMENTS**

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS.

At Burlington, in the County and State aforesaid, this 31 day of July 2008, personally appeared Bob Kiss, Mayor and duly authorized agent of the City of Burlington, who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act in this capacity and deed and the free act and deed of the City of Burlington.

Notary Public

Joseph M. Lawrence  
Notary Public

Commission Expires: 7 Feb 2011

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS.

At Burlington, in the County and State aforesaid, this 22nd day of July 2008, personally appeared Jeanne Collins, Superintendent and duly authorized agent of the City of Burlington Board of School Commissioners, who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act in this capacity and deed and the free act and deed of the City of Burlington Board of School Commissioners.

Notary Public

Joseph E. McNeil  
Notary Public

Commission Expires:

2/10/11



BURLINGTON TELECOM  
 City of Burlington  
 200 Church Street, Suite 101, Burlington VT 05401  
 Voice (802) 865-7529  
 Fax (802) 652-4220  
 TTY (802) 865-7142

*Burl  
 Telecom*

## CITY CLERK'S OFFICE

Received 3-26 2009, at 9:49 <sup>A</sup>M  
 and recorded in Vol. 1061 on Page \_\_\_\_\_  
 of Burlington Land Records. Attest:

*Jim Barsness*, Land Records Clerk

February 26, 2009

City of Burlington Board of School Commissioners  
 Attn: Jeanne Collins  
 150 Colchester Avenue  
 Burlington, VT 05401

**RE: Amendment No. One to Memorandum of Understanding**

Jeanne:

As discussed, both parties have agreed to amend the Memorandum of Understanding, effective as of July 18, 2008, by and between City of Burlington Board of School Commissioners ("Board") and the City of Burlington, Vermont d/b/a Burlington Telecom ("Burlington Telecom").

All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the applicable Memorandum of Understanding.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of all rights and provisions in the Memorandum of Understanding, the parties hereby agree to amend the Memorandum of Understanding as follows, effective as of July 18, 2008.

Notwithstanding anything to the contrary in the Memorandum of Understanding, Burlington Telecom and Board agree that the Memorandum of Understanding is amended as follows,

1. Section 11 in its entirety is hereby deleted and replaced with the following language: Board shall provide property related insurance for the value of the owned real property known as Taft School. Burlington Telecom will insure the replacement value of the business personal property improvements and betterments made by Burlington Telecom and located at Taft School. A certificate of insurance for commercial general liability shall be provided to the Board, naming the Board as an additional insured.
2. Board and Burlington Telecom agree to waive their collective rights of subrogation in the event of a property related claim at Taft School.

Except as set forth herein, all provisions of the Memorandum of Understanding shall remain in full force and effect.

Please confirm your acceptance of the foregoing by signing in the space provided below and returning this Amendment to us for countersignature.

1061 136

- 2 -

February 26, 2009

Sincerely,

City of Burlington d/b/a Burlington Telecom

By: [Signature]  
Name: Bob Kiss  
Title: Mayor  
Date: 3/4/09

AGREED AND ACCEPTED:

City of Burlington Board of School Commissioners

By: [Signature]  
Name: Deanne Collins  
Title: Superintendent  
Duly Authorized Agent  
Date: 3-10-09

Exhibit B.2 to  
Management and  
Sale Agreement

②  
CITY CLERK'S OFFICE  
Received 3-10-2009 at 10:30 AM  
and recorded in Vol. 1058 on Page 682  
of Burlington Land Records. Attest:

*Jim Bocklund*, Land Records Clerk

### MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made this 18<sup>th</sup> day of July, 2008, by and between the City of Burlington Board of School Commissioners (hereinafter called the "Board") and the City of Burlington d/b/a Burlington Telecom (hereinafter called "City").

#### WITNESSETH:

WHEREAS, the City of Burlington is the owner of certain real property in the City of Burlington located at 287 Shelburne Road, 1364 North Avenue, 1645 North Avenue and 123 North Street, which is used by the Board; and

WHEREAS, Burlington Telecom desires to construct buildings at each of these locations for equipment to provide telecommunications services to residents and businesses of Burlington;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, the parties do hereby agree as follows:

1. The Board hereby covenants and promises to allow the City to construct a 30' x 60' building at 287 Shelburne Road, a 22' x 32' building at 1264 North Avenue ("Hunt"), a 22' x 32' building at 1645 North Avenue ("Flynn") and an 18' x 28' building located at 123 North Street ("Barnes"); hereinafter referred to collectively as "Buildings." Such Buildings shall be constructed at locations on such properties that have been pre-approved in writing by the Board. The Buildings shall be used only for telecommunications functions under the auspices of Burlington Telecom and shall not be used for any other purpose without the advance written permission of the Board.
2. The City shall comply with all municipal, state and federal rules and regulations in the permitting, construction and maintenance of these Buildings. On-going maintenance by the City shall be to the reasonable satisfaction of the Board.
3. The City shall file in its land records an easement plat and "as built drawings" acceptable to the Board for all affected Buildings and Building locations with a copy to the Board when the work is completed.
4. In consideration for the right to construct the Buildings, the City shall provide the following improvements for the Board at the City's sole expense: at 287 Shelburne Road, installation of a 30' electric sliding access gate for the school facility; at Flynn provide the school with a 9' x 12' athletic storage room, which will be separate and distinct from Burlington Telecom's space in the building; and at Barnes shall construct a T-ball field,



backstop and install bicycle racks, all to be constructed in accordance with the Board's specifications as communicated to the City.

5. It is hereby understood and agreed upon that this MOU creates an easement, which is granted in perpetuity and shall run with the land so as to be forever binding upon the parties hereto and their respective heirs, personal representatives, administrators, successors and assigns. This easement shall include the right and obligation of the City to access the properties and the Buildings in a reasonable manner so as to minimize to the greatest extent practicable adverse impacts upon the Board's delivery of its educational programs. However, the City may access the properties and Buildings affected by this MOU at any time in case of emergency. If the Board shall ever need any of the properties on which the Buildings are constructed for educational purposes, it shall be obligated at its sole expense to move and/or replace the Buildings to another location on the particular property that gives the City equivalent space and functionality.
6. This MOU shall be governed by the laws of the State of Vermont. It shall be interpreted in accordance with its plain meaning and not construed against either party as the drafter hereof. If any part of this MOU shall be judicially declared null and void the remainder shall be given full force and effect so long as neither the commercial purpose hereof for the City nor the expected facilities to be received by the Board are prevented or adversely impacted in a substantial way.
7. No assignment nor subletting of this MOU or any rights hereunder shall be permitted without the advance written permission of the Board.
8. The Board shall not attempt to sell, lease or otherwise encumber the affected lands and Buildings without advising the potential transferee of the existence, scope and duration of this MOU.
9. The parties shall each hold the other harmless from any loss or expense to its property as a result of any act or failure to act by the other on the affected property. Each party shall cause the other to be named as an additional insured on its liability and property damage policies to the extent of the respective interests.
10. Each party hereto shall have the right to repair and replace its facilities on the affected properties in the manner specified in paragraph 5 hereof.

In Witness Whereof, the parties hereby execute this MOU by duly authorized representatives as of the day and date first above written.

**CITY OF BURLINGTON BOARD OF  
SCHOOL COMMISSIONERS**

*Jeanne Collins*  
Superintendent and Duly Authorized Agent

**CITY OF BURLINGTON**

*Bob Kiss*  
Mayor and Duly Authorized Agent

**ACKNOWLEDGEMENTS**

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS.

At Burlington, in the County and State aforesaid, this 31 day of July 2008, personally appeared Bob Kiss, Mayor and duly authorized agent of the City of Burlington, who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act in this capacity and deed and the free act and deed of the City of Burlington.

Notary Public

*Ray M. Lankford*  
Notary Public  
Commission Expires: 7 Feb 2011

STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS.

At Burlington, in the County and State aforesaid, this 31 day of July 2008, personally appeared Jeanne Collins, Superintendent and duly authorized agent of the City of Burlington Board of School Commissioners, who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act in this capacity and deed and the free act and deed of the City of Burlington Board of School Commissioners.

Notary Public

*Joseph E. Muldoon*  
Notary Public  
Commission Expires: 2/10/11



Exhibit C

PILOT Agreement with City is attached hereto.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made as of this 29<sup>th</sup> day of July 2008, and effective as of October 11, 2005, by and between two departments of the City of Burlington, Burlington Telecom ("BT") and the office of the Chief Administrative Officer ("CAO"), for the purpose of satisfying a condition contained in the certificate of public good ("CPG") issued to BT by the Vermont Public Service Board in Docket 7044.

### WITNESSETH

WHEREAS, Section 65 of the Burlington City Charter provides in part that the "electric light department, the water division and the waste water division shall every year make a contribution to the city in lieu of taxes in the form of a cash payment . . . in an amount equaling the amount of money which would be received by the city in ad valorem real estate taxes and personal property inventory taxes were such divisions and department privately owned utilities;

WHEREAS, the City testified in Docket 7044 that it intended to apply Section 65 to BT;

WHEREAS, condition 61 of the CPG issued in Docket 7044 requires BT to "make payments in lieu of local and state taxes in an amount consistent with such taxes imposed on other private cable operators' businesses in Burlington";

WHEREAS, on October 11, 2005, the City Council adopted a resolution subjecting Burlington Telecom to the provisions of Section 65 of the City Charter regarding payments in lieu of taxes; and

WHEREAS, the parties enter into this MOU for the purpose of satisfying condition 61 of the CPG.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and promises herein contained, the parties hereby covenant and agree as follows:

1. BT's obligation to make payments in lieu of taxes: BT shall every year make a contribution to the City in lieu of taxes in the form of a cash payment in an amount equaling the amount of money which would be received by the City in ad valorem real estate taxes and personal property inventory taxes were BT a privately owned cable company.

2. Property Valuation Methodology: BT's land, buildings and personal property shall be valued as assessed by the City Assessor per standard City practices and state law.

3. Tax Rates and Applicability: BT's assets shall be taxed at the same rate that would apply if such assets were held by a privately owned utility. Rates will apply to those assets as defined in 32 V.S.A. for each of the three (3) categories of BT's business (telephone, Cable TV, and Internet).

4. Relationship of the Parties: The parties understand that, as departments of the City of Burlington, they are not separate political entities, and therefore lack the capacity to sue or be sued. The CAO understands that BT's financial obligations hereunder are payable from BT funds, and are not backed by the full faith and credit of the City of Burlington.

Dated as of the day and date first above written.

Al. Thibault  
Witness

BURLINGTON TELECOM  
By: [Signature]  
Duly Authorized Agent

Jessica L. Frank  
Witness

OFFICE OF THE CHIEF ADMINISTRATIVE  
OFFICER  
By: [Signature]  
Duly Authorized Agent

APPROVED BY BURLINGTON CITY COUNCIL

Barbara H. Grimes  
Witness

By: [Signature]  
Mayor Bob Kiss

231052-67