Open Video System (OVS)
Operating Agreement

between

THE CITY OF BOSTON

and

RCN-BECOCOM INC.

Renewed July 16, 2010

Thomas M. Menino, Mayor
City of Boston

OVS OPERATING AGREEMENT

GRANTED TO RCN-BECOCOM, INC.

Renewed July 16, 2010

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OPEN VIDEO SYSTEMS AGREEMENT

This Open Video Systems Agreement (OVS Agreement") is hereby renewed and entered into this 16th day of July, 2010, by and between RCN BecoCom, Inc. ("RCN"), a Massachusetts company having its principal place of business at 115 West First St., South Boston, Boston, MA 02127 and the City of Boston, a body politic and corporate in the Commonwealth of Massachusetts (the "City") acting by and through its Mayor (the "Mayor").

W I T N E S S E T H:

WHEREAS, RCN is in the business of providing OVS Services to residential and commercial customers; and

WHEREAS, RCN is certificated by the Federal Communications Commission (the "FCC") to offer OVS Services in the City;

WHEREAS, RCN wishes to renew its Agreement to continue operations as an OVS Operator in the City of Boston;

WHEREAS, RCN has either constructed its own or leased a hybrid coaxial fiber-optic bandwidth network in order to provide its OVS Services in the City;

WHEREAS, RCN has agreed to provide certain Public, Educational and Municipal Use Channels ("PEM Channels") as part of its OVS Services;

WHEREAS, RCN has agreed to pay the City a percentage of the revenues it receives from the provision of OVS Services in the City and a contribution to the City's acquisition, lease or other provision of PEM facilities, equipment and services;

WHEREAS, RCN has agreed to the terms herein regarding its provision of OVS Services in the City; and

WHEREAS, the City believes that RCN's provision of OVS Services pursuant to this OVS Agreement is in the best interests of City residents.

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the City and RCN hereby enter into this OVS Agreement, authorizing RCN to continue providing OVS Services in the City, subject to the following conditions:

DEFINITIONS

For the purpose of this Agreement the following words, terms, phrases, and their derivations shall have the meanings given herein, unless the context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Affiliate" means a person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in the notes accompanying 47 CFR Sec. 76.501.

"Boston Resident" means an individual whose actual principal residence, that is, where he normally eats, sleeps and maintains his personal and household effects, is located in the City of Boston.

"Cable Communications Policy Act of 1984" or "Act" means the Federal Act, effective on December 30, 1984 and codified at 47 U.S.C. § 521 *et. seq.*, as amended.

"Channel" means a portion of the electromagnetic spectrum which is used in a cable system and which is capable of delivering a television channel as television is defined by FCC regulation.

"City" or "City of Boston" means the municipal corporation organized under the laws of the Commonwealth of Massachusetts and its corporate territorial limits as they exist upon the execution of the

"Commercial Channel" means any channel, or portion thereof, available for lease pursuant to the terms set forth in 47 U.S.C. § 532 for programming by persons other than RCN.

"Demarcation Point" means the point at or about twelve (12) inches outside of where the System wires enter the Subscriber's premises.

"Downstream Channel" means a channel over which signals travel from a System node to an authorized recipient of Programming.

"Educational Access" means the right or ability of any person to use designated facilities, equipment or channels for educational access within the meaning of 47 U.S.C. § 522(16)(A).

"FCC" means the Federal Communications Commission or any successor agency.

"Foundation" means the independent, non-profit corporation known as the Boston Community Access and Programming Foundation, Inc.

"Gross Revenue" means consideration of any form or kind derived by RCN from the operation of the OVS to provide Cable Services within the City of Boston including, without limitation: monthly fees for all Cable and Video Service (including all premium, pay-per-view, pay-per-event and video-on-demand services); installation, reconnection, downgrade, upgrade and any similar charges; interest collected on Subscriber fees and/or charges; all commercial Cable Service revenues; fees paid to RCN for channels designated for commercial/leased access use; converter, remote control and other Cable Services equipment rentals and/or leases or sales; advertising revenues (including any commissions received by RCN or its Affiliates but excluding unaffiliated third party agency fees not received by RCN or its Affiliates); revenues from program guides; barter, launch fees, marketing support or reimbursements, and similar payments by programmers; sale or rental of subscriber lists; and commissions from home shopping Channels. Gross Revenues shall include a pro-rated portion based on the number of subscribers of all advertising revenue derived pursuant to any local, regional, or national compensation arrangements for any Cable Television advertising services derived from the operation of the Cable System in the City.

To prevent avoidance of franchise fees, "Gross Revenues" shall be construed broadly to include revenues of Affiliates, and any other entity that derives revenue from the operation of the Cable System to provide Cable Services.

"High Speed Internet Service" means any service offered by RCN to subscribers whereby subscribers will receive access to the Internet through a modem connected to the OVS.

"Households" means all occupied individual dwellings, lodging houses, residences, apartments, condominiums, cooperative buildings, dormitories, and all other residential dwelling units located in the City of Boston upon the execution of the OVS Agreement or at any time in the future.

"Minority" means an individual who is Black, Hispanic, Asian or Native American, female and all other recognized minority groups.

"Minority Business" means any business organization in which at least fifty-one percent (51%) of the beneficial ownership is held by or one or more minorities.

"Multichannel Video Programming Provider" means a person who makes available for purchase, by subscribers to customers, multiple channels of video programming.

"Municipal Access" means the right or ability of the City, the Mayor or his designee to use designated facilities, equipment or channels of the OVS for governmental access within the meaning of 47 U.S.C. § 522 (16)(A).

"Open Video System" or "OVS" shall mean a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide Video Programming to multiple subscribers within the City and which has received a Certificate from the FCC pursuant to 47 C.F.R. § 76.1502.

"OVS Operator" shall mean any entity which provides OVS Service in the City pursuant to a Certificate approved by the FCC using a broadband fiber optic distribution system or systems to

distribute its own Video Programming, an Affiliate's Video Programming or the Video Programming of unaffiliated Video Programming Providers (VPPs) directly to subscribers in the City.

"OVS Service" shall include the Video Programming services distributed by an OVS Operator or its Affiliate directly to their subscribers in the City by use of the OVS Operator's broadband fiber optic transmission facilities ("OVS Programming Service") and the video transmission services provided by the OVS Operator or its Affiliate to Video Programming Providers for their use in delivering Video Programming to their subscribers in the City ("OVS Transmission Service".)

"Public, Educational and Municipal (PEM) Access Programming" means non-commercial programming produced or sponsored by any Boston resident organizations, schools and government entities and the use of designated facilities, equipment and/or channels of the OVS system in accordance with 47 U.S.C. 531 and this Renewal OVS Agreement.

"Person" means any individual, firm, corporation, joint venture, partnership, association, Public Institution or any other legally recognized entity.

"Programming" means any video, audio, text or data coded signals carried over the OVS

"Public Access" or "Community Access" means the right or ability of any person to use designated facilities, equipment or channels of the OVS for public access within the meaning of 47 U.S.C. § 522(16)(A).

"Public Improvement Commission" means the Public Improvement Commission of the City of Boston.

"Public Institution" means any building 1) which as of the date of this Agreement has received a connection to the OVS without charge as a result of a City designation or 2) any building listed on Schedule 1 hereto.

"Public Ways And Places" means the surface of and the space above and below any and all public ways and places in the City of Boston, including without limitation all public streets, ways, lanes, alleys, parkways, bridges, tunnels, freeways or highways and all property with respect to which the City has, or hereafter acquires, an easement or right-of-way.

"Public Works Department" or "Public Works" means the Public Works Department of the City of Boston.

"Residential Subscriber" means any purchaser of any programming transmitted to an individual dwelling unit, and not primarily utilized in connection with a business, trade or profession.

"Signal" means any transmission of electromagnetic or optical energy which carries Video Programming from one location to another.

"Subscriber" means a person authorized to receive programming.

"Subscriber Network" means the bidirectional OVS to be operated by RCN and designed principally for the delivery of services to Residential Subscribers.

"Upstream Channel" means a channel over which signals travel from an authorized location other than a System hub to a System hub.

"User" means any person other than RCN who utilizes System studio or channel facilities, with or without charge.

"Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

"Video Programming Provider" or "VPP" shall mean any multi-channel video programming distributor with the right under the copyright laws to select and contract for carriage of specific Video Programming on an Open Video System that purchases OVS Transmission Services from the OVS Provider for the distribution of Video Programming to VPP subscribers in the City and who is not an Affiliate of the OVS Operator.

SECTION 1

GRANT

Section 1.1 Grant of Location

Pursuant to Chapter 166 § 21 of the Massachusetts General Laws, as amended, and subject to the terms and conditions set forth herein, the Mayor of the City of Boston hereby grants to RCN acting pursuant to the rules and regulations of the Public Improvement Commission, to construct, install, operate and maintain in, under, over, along, across or upon the public ways and places within the City of Boston for the purpose of reception, transmission, collection, amplification, origination, distribution or redistribution of audio, video or other signals and for the provision of broadband telecommunication services in accordance with the laws of the United States of America and The Commonwealth of Massachusetts. In exercising rights pursuant to said grant of authority, RCN shall not endanger or interfere with the lives of persons, interfere with any installations of the City, any public utility serving the City or any other person permitted to use public ways and places, nor unnecessarily hinder or obstruct the free use of public ways and places. Grant of this authority does not establish priority for use over other present or future permit holders or the City's own use of public ways and places. If RCN shall no longer be certified by the FCC to operate an OVS System, RCN shall no longer be entitled to use the public ways and streets of the City to operate an OVS System, and RCN shall apply to the City for a cable license under G.L. c. 166A should it desire to construct, maintain or otherwise control facilities in the public ways and streets to provide Cable Service. Disputes between RCN and other parties regarding use of public ways and places shall be resolved in accordance with special laws or City ordinances.

Section 1.2 Term of Agreement

The term of this OVS Agreement shall commence on the date of its execution by the City and RCN and shall terminate on July 16, 2020 unless sooner terminated as provided herein. If RCN shall no

longer be certified by the FCC to operate an OVS system, this Agreement shall terminate immediately. At any time after July 16, 2016, RCN may file a proposal for the City for the renewal of this Agreement; provided that, in any event RCN shall file its proposal for renewal of this Agreement not later than July 16, 2017. The proposal shall be in a form prescribed by the City. The City shall, after holding a public hearing upon two weeks' notice, grant or deny the proposal on such terms and conditions as the City finds reasonable.

Section 1.3 Non-Exclusivity of OVS Agreement

This OVS Agreement shall not affect the right of the City to issue any other person or company a similar agreement to provide OVS Services or other forms of Video Programming services in the City. RCN hereby acknowledges the City's right to issue such additional agreements.

Section 1.4 Transfer and Assignment of Agreement

This Agreement or control thereof shall not be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of twenty five percent (25%) of the ownership or control of RCN, without the prior written consent of the Mayor, which consent shall not be arbitrarily or unreasonably withheld or delayed. Such consent shall be given only after a public hearing as required by Commonwealth law has been held upon a written application therefor containing the information required by FCC Form 394 and:

1. RCN has submitted three copies of said application to the Director of the Mayor's Office of Cable Communications which has been signed by RCN and by the proposed transferee or assignee or by their representatives, including evidence of whose authority shall be submitted with such application.
2. RCN has provided to the City copies of documents and such other information as the City may reasonably require as part of its review of the application.
3. RCN shall provide all assistance requested by the City in connection with its review of the application, including securing the cooperation and assistance of all other parties to the proposed transfer.
   RCN has reimbursed the City for all reasonable expenses associated with the legal, financial and administrative expenses incurred in the review of a transfer, subject to a maximum reimbursement of $10,000.

The consent of the Mayor to a transfer or an assignment of this Agreement shall not be given if it appears from the application or from subsequent investigation or otherwise the transferee or assignee is not willing to be bound by the terms of this OVS Agreement.

Section 1.5 Police and Regulatory Powers Reserved

In executing this Agreement, RCN acknowledges that its rights are subject to the powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public, including all powers granted pursuant to Chapter 448, § 35 of the Special Acts of 1854 as from time to time amended. RCN shall comply with all applicable laws and ordinances enacted by the City pursuant to any such power. Any conflict between the terms of this Agreement and any present or future lawful exercise of the City's police and regulatory powers shall be resolved in favor of the latter. Further, RCN, for its

affiliates, agents, successors and assigns, hereby admits that the Mayor has authority to execute this Agreement and that the City has authority to enforce this Agreement in accordance with its terms, subject to the qualifications that the availability of the remedy of specific enforcement, of injunctive relief or other equitable relief is subject to the court before which any proceeding therefor may be brought, and that the enforcement of the rights and remedies created hereby is subject to bankruptcy, insolvency, reorganization and similar laws of general application affecting the rights and remedies of creditors and secured parties, and RCN hereby waives any claims or defenses based on a theory that the Mayor lacks authority to sign this Agreement or that the City lacks authority to enforce it in accordance with its terms.

Section 1.6 Right of Condemnation Reserved

Nothing in this Agreement shall limit any right the City may have to acquire by eminent domain or otherwise any property of RCN; provided, however, that any such acquisition shall be for a price that values RCN's property at fair market value.

Section 1.7 Removal or Abandonment

To the extent required by Law, upon termination of this Agreement by passage of time or otherwise, RCN shall remove its wires, amplifiers, supporting structures, poles, transmission and distribution systems, and all other appurtenances from the public ways and places and shall restore the areas to their original condition unless (a) said transmission and distribution systems are activated and deployed for a duly authorized purpose or (b) RCN transfers the OVS to a subsequent OVS Provider approved by the Mayor. Such removal shall be made with the supervision of the Public Works Department. If such removal is not completed within six (6) months after such termination, the Mayor may deem any property not removed as having been abandoned. Such property may then be removed at the option of the Commissioner of Public Works at RCN's expense less any recoverable salvage value.

Section 1.8 Governing Requirement

At all times during the term of this Agreement, RCN shall comply with all laws, rules or regulations of the municipal, state or federal governments, their regulatory agencies or commissions which are now applicable or may be applicable hereafter to the construction, installation, operation or maintenance of the OVS, including without limitation, all special laws, ordinances, or regulations now in force or hereafter enacted. Nothing herein shall be deemed a waiver of RCN's right to challenge the validity of any such law, rule or regulation.

SECTION 2

CONSTRUCTION AND INSTALLATION

Section 2.1 Construction Plans and Budget

RCN shall provide the City with a copy of its proposed capital budget for construction of the OVS System in Boston in accordance with the following schedule. Said capital budget proposal shall be submitted to the City by RCN's General Manager of the Boston system or a similarly situated RCN

executive on or before November 30 of each year for the subsequent fiscal year during the term of this Agreement, or until RCN has constructed a system in which 95% of the homes in the City are connected to a node in an OVS System that meets the design and configuration requirements of Section 4.1. Said proposal shall include a report on the number of miles of construction and location of construction which have been completed in the current fiscal year. If RCN fails to provide the City with a proposed capital budget for the subsequent fiscal year on or before November 30 in any year, RCN shall provide the City with a written explanation on or before said date. RCN agrees to provide the City with such additional information as the City may reasonably request in connection with RCN's annual construction plans.

Section 2.2 Residents' Notification Plan

RCN shall give thirty (30) days advance notice of construction to all residents through messages inserted in monthly statements, notices published in community newspapers as well as the *Boston Globe* or *Boston Herald*. RCN shall provide residents with notice of a community meeting to be scheduled in conjunction with the Office of Cable Communications for the purpose of discussing construction. RCN shall provide notice of construction through doorknob hangers twenty-four (24) to forty-eight (48) hours in advance of construction.

Section 2.3 Safety Standards

RCN shall construct, install, operate, maintain and remove the in conformance with Occupational Safety and Health Administration regulations, the Massachusetts Electrical Code, the National Electrical Code, the National Electrical Safety Code, the National Cable Television Standard Code, Bell Telephone Systems Code of Pole Line Construction, and the Federal Communications Commission, all building and zoning codes, and all land use restrictions as the same exist or may be amended hereafter.

Section 2.4 Line Extension

(A) Line Extension Policy for Noncommercial Establishments

RCN's obligation to extend its OVS system shall be limited to those streets in which RCN's costs of installation, exclusive of converter and drop, is no greater than $1000 per Household, unless prospective subscribers within said streets agree to pay all additional costs in excess of said amount. RCN may, in its sole discretion, waive the excess charges if it deems it commercially desirable.

(B) Line Extension for Commercial Establishments

RCN shall make OVS service(s) available to all commercial establishments in the City; provided, however, that all costs of providing service to such establishments shall be paid by the prospective commercial Subscriber.

(C) BHA Exemption

In no case shall this Section 3.3 apply to BHA developments.

Section 2.5 Design Plans

RCN shall submit all System design plans to the Mayor for review and comment not less than 30 days prior to construction in any area served by a node as set forth in said design plan.

Section 2.6 Location of OVS

RCN shall construct, install, operate and maintain all elements of the OVS within the City of Boston in accordance with the maps and other documents submitted to the City in accordance with this Agreement. Poles, towers and other obstructions shall be erected so as not to interfere with vehicular or pedestrian traffic over public ways and places. The erection and location of all poles, towers and other obstructions shall be fixed with the prior written approval and under the supervision of the Public Works Department, which approval shall not be unreasonably withheld; provided, however, RCN shall not have a vested interest in such location; and such construction shall be removed by RCN at its sole cost and expense whenever, in the judgment of the Public Works Department, the same restricts or obstructs the operation or location or any future operation or location of public ways and places, or whenever the Commissioner of the Public Works Department closes or abandons any public way or place.

Section 2.7 Disconnection and Relocation

RCN shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street, or other public way and place, or remove from any street or any other public ways and places, any of its property as required by the Public Works Department by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any City Department acting in a governmental capacity.

Section 2.8 City Property

Any alteration to the water mains, sewerage or drainage system or to any other municipal structures in the streets, required due to the presence of the System, shall be made at the sole cost and expense of RCN. During the construction, installation, operation or maintenance of the System, RCN shall at its sole cost and expense protect all existing structures belonging to the City. All work performed by RCN pursuant to this Section shall be done in the manner prescribed by the Public Works Department, the Boston Water and Sewer Commission or the municipal official having jurisdiction thereof.

Section 2.9 Notice Of City Construction

The City shall give RCN reasonable notice of street improvements where paving, regarding, grading or resurfacing of a permanent nature is involved. Said notice shall describe the nature and character of such improvements, the streets upon which they shall be made, the extent of the improvements and the work schedule for the project. The City shall allow RCN time to make such additions, alterations or repairs to the System which are reasonably necessary to permit RCN to maintain continuity of System service in advance of said construction. RCN shall cooperate fully with the City and shall commence promptly all necessary work and shall hinder in no way the City's project.

Section 2.10 Private Property

RCN shall be subject to all laws, ordinances or regulations regarding private property in the course of constructing, installing, operating or maintaining the OVS in the City of Boston. RCN shall

accept all complaints regarding damages to property properly mailed to it at its usual place of business or such complaints made by telephone. RCN shall have a qualified person investigate and examine all such written or telephone claims concerning private property, both real and personal, damaged or destroyed as a result of the construction, installation, operation or maintenance of the System, within fifteen (15) days of such damage or destruction being reported to RCN. Where RCN acknowledges liability for such damage or destruction, it shall, for all claims under $500, either repair or replace such damage or destruction, or shall make total restitution to the affected subscriber within fifteen (15) days of investigating such damage or destruction. Said repair, replacement and/or restitution shall be at RCN's sole cost and expense. If for any reason RCN is unable to comply with this fifteen (15) day requirement, it shall immediately notify the affected subscriber and the Director of the Mayor's Office of Cable Communications in writing explaining why repairs or replacement cannot be accomplished within the required time limits set forth herein and what steps are being taken by RCN to repair or replace such damage. Said written notification shall in any case be sent to the affected subscriber and the Mayor within the fifteen (15) day period required herein. For all claims in excess of $500, and all disputed claims between the parties, RCN shall notify its insurance carrier within five (5) days of completing its investigation of such damage or destruction.

Section 2.11 Pole Attachment

The City, to the extent permitted by law, hereby grants RCN permission to attach or otherwise affix its equipment to the facilities of any public utility company or telecommunications company even though the same may cross over or under the public ways and places of the City; provided, however, RCN secures the permission or consent of each such public utility company or telecommunications company. The terms and conditions of any such attachment may be determined by the Massachusetts Department of Telecommunications and Energy pursuant to G.L. c. 166 § 25A.

Section 2.12 Underground Facilities

In the event that the City in the future may require all of public utilities and telecommunications companies to place their cables, wires or other equipment underground, RCN also shall place its cables, wires, or other equipment underground without expense or liability therefor to the City. If RCN is required to share underground facilities with another person, such shared use shall be subject to the terms and conditions provided for in Section 3.10 above.

Section 2.13 Repairs And Restoration

Whenever RCN takes up or disturbs any pavement, sidewalk or other improvement of any public way or place, the same shall be replaced and the surface restored in accordance with the rules and regulations of the Public Works Department, including without limitation, those set forth in Schedule 3 and in the City of Boston Code, Ordinance Title 11, Section 158.

Section 2.14 Tree Trimming

RCN shall be subject to G.L. c. 87 and shall comply with all rules, regulations or procedures as established by the Commissioner of the Parks and Recreation Department at all times during the term of this OVS. RCN shall use its best efforts to obtain the prior permission of the owner of any privately owned tree or other vegetation before it trims or prunes the same. All persons engaged by RCN to

provide tree trimming or pruning services shall be deemed, for purposes of this OVS, an employee or agent of RCN when engaged in such activity; and in no event shall such person be deemed to be an employee or agent of the City.

Section 2.15 Temporary Relocation

RCN shall temporarily raise or lower its wires or other equipment upon the reasonable request of any person, including without limitation, a person holding a building moving permit issued by the City. The expense of such raising or lowering shall be paid by RCN. RCN shall be given reasonable notice necessary to maintain continuity of service.

Section 2.16 Right to Inspection of Construction

The City or its designee shall have the right to inspect all construction or installation work performed subject to the provisions of this OVS Agreement and to make such tests as it shall deem necessary to ensure compliance with the terms of this Agreement and all other applicable law. Except as otherwise provided by law, regulation or ordinance, all inspections and tests performed by the City shall be at the City's sole cost and expense.

Section 2.17 Limitation on Construction Obligations

Notwithstanding any provision in this Agreement to the contrary, RCN's obligations with regard to the location, relocation and possible removal of the System shall not be more onerous than the statutory and regulatory requirements applicable to the location, relocation and removal activities of any public utility doing business in the City.

SECTION 3

MAINTENANCE

Section 3.1 General

RCN shall continue to maintain wires, cables and all other real and personal property and facilities constituting the System in good condition, order and repair at all times during the term of this Agreement.

Section 3.2 Maintenance Log

RCN shall maintain an annual log showing the date, approximate time and duration, type and probable cause of all OVS outages, whole or partial, due to causes other than routine testing or maintenance. The entries in such log shall be retained by RCN for one (1) additional year and shall be subject to inspection and copying by the Mayor or his designee during RCN's regular business hours upon reasonable request.

Section 3.3 Service Interruption

Except where there exists an emergency situation necessitating a more expeditious procedure, RCN may interrupt service for the purpose of repairing, upgrading or testing the OVS, only during periods of minimum use, and only after a minimum of forty-eighty (48) hours notice to affected Subscribers.

SECTION 4

SYSTEM DESIGN AND CONFIGURATION

Section 4.1 Hub Distribution Centers

RCN shall design and construct an OVS using a combination of fiber optics and coaxial radio frequency ("RF") distribution. The System will have a bandwidth of no less than 860 MHz.

The System will consist of of digital transport using wavelength division multiplexing ("WDM") and 1550 nm and 1310 nm optical components connected to an 860 MHz optical node which will convert the optical signals to RF signals for distribution on a coaxial based system. Each optical node will be constructed with at least a 12 fiber bundle of single mode fibers to serve an area no larger than 150 homes passed. This design will accommodate other communications services such as telephony and high speed data.

Each optical node and its RF distribution will be powered using a zero transfer standby power supply to minimize interruptions of service caused by power outages. The coaxial cable will be jacketed for durability and performance. All splicing and RF connection will use integral sleeve pin type connectors and will be shielded with heat shrinkable tubing for weather protection.

The System will be designed and constructed to be an active two way plan utilizing the return bandwidth of 5-40 MHz to permit such services as impulse pay per view, high speed data, telemetry, telephony, and other telecommunication services. These return signals will be transmitted back to the primary headend or hub using the optical return laser in the node. The optical return laser has a return bandwidth of 5-200 MHz to allow for future bandwidth requirements. The headend site will be geographically located to serve the entire City of Boston using a digital and/or analog fiber transmission system. A hub site will be located within the City of Boston to distribute these signals.

Section 4.2 Capacity For Institutional Services

The System shall have the capacity for carrying audio, text, data or video signals. The System shall have the capacity to provide a full range of channelization and multiplexing options to meet the needs of the broadest spectrum of institutional Subscribers and Users.

Section 4.3 Narrowcasting Capability

Signal reprocessing facilities shall be available at each hub site to allow for discrete programming of some locally originated audio, video, text or data services within any hub service area. Each hub shall be interconnected sufficiently with all other hubs and adequate signal reprocessing facilities shall be provided to allow discrete programming of some locally originated audio, video, text or data signals

between any combination of hubs. The RCN may require of interested users a reasonable time period, not to exceed ten (10) business days, in which to activate said capacity.

Section 4.4 Standby Power

RCN shall comply with all national electrical and public safety standards with respect to standby power, but in no case less than four (4) hours duration at each System power location in order to maintain service in the event of power supply failure or loss. The headend, all remote hubs, studios, microwave and satellite facilities shall have separate emergency power supplies. All utility safety regulations shall be followed to prevent the emergency power supplies or standby generators from powering non-functioning utility lines.

Section 4.5 Emergency Alert

RCN shall construct, install and maintain the OVS to permit the Mayor to override all audio and video channels during emergencies consistent with FCC regulations.

Section 4.6 Interconnection

The System shall be designed so as to permit interconnection with cable systems or similar communications systems.

Section 4.7 Parental Control Capability

RCN shall provide, upon request, residential Subscribers with the capability to control the reception of channels carrying potentially offensive programming, either through the use of a manual key lock device or through the addressable capability of the System. Such capability shall be provided free of charge to Subscribers who utilize a converter.

Section 4.8 Identification of Potentially Offensive Programming

RCN shall use its best efforts to identify for Subscribers local origination, pay-cable or pay-per-view programming on the Subscriber Network which may be offensive or which may be of a mature nature (but RCN shall not be obligated to interfere with satellite-delivered pay services), unless such programming has been rated by the Motion Picture Association of America, in which case said rating shall be displayed prior to cablecasting such program. RCN may delegate said identification responsibility to Users of leased channels by including a provision containing the requirements of this Section in all applicable agreements with Users of leased channels.

Section 4.9 Technical Performance

The technical performance of the OVS shall meet the technical standards promulgated by the FCC and industry standards. The Mayor shall have the full authority permitted by applicable law to enforce compliance with these technical standards.

SECTION 5

SERVICE AND PROGRAMMING

Section 5.1 Initial Service and Programming

RCN shall furnish persons located in the City of Boston and residing in homes passed by the system with service within seven (7) business days on average after request therefor, measured on a quarterly basis. RCN shall in no case accept orders or payments for the installation of OVS service until such time as a qualified representative of RCN has determined and verified that service can be supplied, and that no cold spots or access problems exist for the affected resident. RCN shall complete installation on the date specified in the original order agreement.

Section 5.2 Basic Service

RCN shall provide a Basic Service which shall include at least: (i) all broadcast television signals in the Boston, Massachusetts metropolitan area which are required to be carried by a "cable television system" serving the City pursuant to statute or regulation; (ii) five (5) downstream channels, which shall be allocated by the Mayor for Public, Educational or Municipal Access uses; and (iii) in RCN's editorial discretion, additional programming which is available to OVS for distribution as part of basic service. RCN shall endeavor to provide a wide range and assortment of programming services serving a variety of needs and interests, subject to the availability of such services to RCN upon such reasonable fees and conditions as are generally available to cable television systems.

RCN shall reserve channel capacity for use on a priority basis for: (i) programming directed toward and of primary interest to senior citizens; (ii) programming directed toward and of primary interest to children; (iii) educational programming; (iv) foreign language programming designed to serve the major linguistic minorities of the City of Boston; and (v) programming directed towards and of primary interest to cultural, ethnic and racial minorities in Boston; and (vi) other programming of interest to groups inadequately served by conventional television. Said channel capacity may also carry nationally distributed programming, local origination programming and access programming.

Section 5.3 Channel Designation Transposition

Whenever RCN transposes any television signal from the channel on which it was originally broadcast so that it is received on a different channel on the television sets of Subscribers, RCN shall, at least one (1) month prior to such transposition, notify every Subscriber in writing of such transposition and provide all Subscribers with a marker suitable for mounting on television receivers indicating the fact of such transposition.

Section 5.4 Program Guide

RCN shall provide an electronic program guide to all OVS Subscribers. The program guide shall include programming cablecast by the Foundation and institutions providing Educational Access Programming and programming cablecast on the municipal channel upon the request of the appropriate authority in sufficient time to allow insertion. The Foundation, the institutions providing Educational

Access Programming and the City shall each be responsible on a pro rata basis for all additional expenses incurred by RCN as a direct result of RCN's compliance with their respective requests.

Section 5.5 Senior Citizens' Services

RCN shall use its best efforts to develop and cablecast programming that is of interest to Boston's elderly population.

Section 5.6 Children's Services

RCN shall use its best efforts to develop and cablecast live and pre-recorded tutorial sessions designed to assist Boston junior and senior high school students.

Section 5.7 Interconnection of Public Institutions

(A) RCN shall provide two (2) strands of fiber which shall be connected at the Demarcation Point of either the telecommunications service or the electrical service in the buildings listed on Schedule 1 as the system is constructed and passes said buildings. RCN shall provide such access to either the existing citywide area network connection or the existing Boston Public Schools' wide area network connection inside these facilities. In the event the facility is internally wired for data, RCN shall provide the two strands of fiber with suitable connectors and an equipment rack for each location.

(B) Maintenance and connection of two strands of fiber via a continuous and uninterrupted path through the RCN's system shall be the responsibility of the RCN. Data transmission and network management and content shall be the responsibility of the City.

Section 5.8 Access Channels

RCN shall reserve five (5) Downstream channels and (1) Upstream channel per node which shall be allocated by the Mayor for Public, Educational or Municipal Access uses. Currently, those channels are 3, 13, 15 and 83. The 5th Channel shall be made available September 1, 2010, initially as Ch. 82, for municipal use to cablecast hearings and meetings of the City Council, and various boards and commissions. RCN shall maintain these channel designation for the term of this OVS agreement unless re-designation/position is approved by the City. Such approval shall not be unreasonably withheld.

Section 5.9 Channel Capacity for Commercial Use

RCN shall provide channel capacity for commercial use in accordance with the requirements of 47 U.S.C. § 532. RCN shall establish and file with the City tariffs for the leasing of channel time which tariffs shall be nondiscriminatory to the extent required by Federal law.

Section 5.10 RCN Network Development Fund

RCN shall pay the sum of $.35 per subscriber per month to a fiscal intermediary account established by the City for the purchase equipment and services which would be used to enhance the use

of the strands of fiber and other connections described in Section 5.7 above. Funds accumulated in this account may also be used by the City to support data transmission and telephony uses on the OVS.

Section 5.11 Continuity of Service

It shall be the right of all Subscribers to receive service insofar as their financial and other obligations to RCN are honored. In the event that RCN elects to rebuild, modify or sell the System, or the City gives notice of intent to terminate or fails to renew this renewal Agreement, RCN shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted service regardless of the circumstances. When necessary service interruptions can be anticipated, RCN shall notify Subscribers in advance. In the event the System is sold, or there is otherwise a change of control in the System, RCN shall cooperate with the City and the transferee in maintaining continuity of service to all Subscribers. During such period, RCN shall be entitled to the revenues for any period during which it operates the System, and shall be entitled to reasonable costs for its services when it no longer operates the System.

Section 5.12 New Developments

If there is a new technology which would enhance substantially the quality or quantity of programming available to Subscribers on the Subscriber Network, RCN shall at the request of the Mayor investigate the feasibility of implementing said technology and shall implement same if it can be done without adding an unwarranted financial burden to Subscribers or investors.

During the 2009 RCN Digital Conversion "Crush", RCN provided a 'Free First Box' program for Boston households through the All-Digital transition of RCN.

RCN has:

- Partnered with the Mayor's Wi-Fi initiative;
- Offered backhaul support for Open Air Boston;
- Supported the City's BTOP/ARRA applications;
- Provided fiber to the City's network for approximately 12 city facilities;
- Provided 6 strands of fiber, available and unused, to terminate at the South Station/Bedford Street NStar facility (Station 514) and 43 Hawkins Street, West End, for the purpose of filling interconnection gaps between and among different fiber networks available to the City. (The dark fiber spliced and connected and referenced in detail in a July 18, 2007 memo and a report by engineer Chris Chandler to the City.); and,
- Built video return for the Boston City Council.

As such, RCN shall continue to make a best effort to work cooperatively with the City of Boston on network initiatives designed to bridge the Digital Divide in Boston.

SECTION 6

RATES AND CHARGES

Section 6.1 Notification

RCN shall, to the extend permitted by law, file with the Mayor schedules which shall describe all services offered by RCN, all rates and charges of any kind, and all terms or conditions relating thereto. Thereafter, RCN shall file with the Mayor all changes in services, all rates and charges of any kind, and all terms and conditions relating thereto thirty (30) days prior to all such changes.

Section 6.2 Free Connections to the Basic Service

RCN shall provide free of charge one (1) connection to the OVS and the Basic Service to all Public Institutions and such new schools, libraries and municipal offices which are hereafter established along the route of the OVS. RCN shall provide connections to the Demarcation Point at all Public Institutions on Schedule 1. In no event shall Public Institutions be considered to include residential buildings. RCN shall complete installation of said connections within ninety (90) days after receipt of a written request therefor, subject to applicable Public Works Department regulations as the system is constructed and passes said buildings

The distribution of the transmissions internally within each Public Institution shall be solely the responsibility of the Public Institution provided with such free installation. Each Public Institution shall assume responsibility for the compatibility of its internal wiring and equipment with the wiring and equipment of the OVS.

Section 6.3 Boston Housing Authority Buildings

RCN shall provide each management office, Community Resources Room and Teen/Youth Center located in Boston Housing Authority buildings with one (1) connection to the Basic Service free of charge.

Section 6.4 Location of Connection

RCN upon request shall discuss the location of each connection with the Director of the Mayor's Office of Cable, Video and Web Services Communications for each of the institutions set forth in Sections 6.2 and 6.3 above.

Section 6.5 Custom Installation

RCN may charge its actual cost for custom installations requested by the Public or Educational Access Users or the Mayor on behalf of any Public Institution referenced in Sections 6.2 and 6.3 above if the premises could be serviced by a standard aerial connection, provided that an appropriate official at the premises is advised of such cost in writing prior to the commencement of such installation.

Section 6.6 Service Beyond Drop Cable

RCN makes no representation or warranty for the quality of service beyond the drop at the institutions set forth in Sections 6.2 and 6.3 above.

Section 6.7 Publication of Rates.

All rates for Subscriber services shall be published. A written schedule of all rates shall be available upon request during business hours at RCN's business office and all other facilities.

Section 6.8 Credit for Service Interruption

In the event that RCN's service to any Subscriber is interrupted for twenty-four (24) or more consecutive hours, RCN shall grant expeditiously such Subscriber or a pro-rata credit. This Section shall apply only where the amount of said credit or rebate exceeds one dollar ($1).

SECTION 7

FRANCHISE FEE

Section 7.1 Franchise Fee Entitlement

Subject to Section 7.2 *infra*, the City of Boston shall be entitled to receive from RCN a franchise fee equal to five percent (5%) of RCN's Gross Revenue, less the value of any payments for Public, Educational and Municipal access operating expenses provided to any successor party designated by the Mayor for the provision of PEM services.

Section 7.2 Payment

(A) The franchise fee established in Section 7.1 above shall be tendered as follows:RCN shall tender the fees described in Section 7.1 for the period beginning on the date of execution of this Agreement and ending on the last day of the first calendar quarter thereafter (the "Initial Payment Period") within ninety (90) days after such period.

(B) RCN shall tender the fees described in Section 7.1 for each calendar quarter within three months after each such period.

(C) RCN herein explicitly agrees to pay the City the license fee(s) as described in Section 7.1 above, notwithstanding legislation or judicial precedent that might allow for any reduction of such payments to the City.

Section 7.3 Affiliates' Use of System

To the extent necessary to prevent RCN from diverting revenues from the operation of the System from RCN to Affiliates to the detriment of the City, Affiliates shall be permitted to utilize the System to provide Video Programming to Subscribers only on terms substantially similar to those available to non-Affiliate Users.

Section 7.4 Late Payment

In the event that the fees herein required are not tendered within fifteen (15) days after the dates fixed in Section 7.2 above, interest due on such fee shall accrue from the date due at the rate of two percent (2%) above the prime rate or rates of interest, at the State Street Bank.

Section 7.5 Recomputation

Tender or acceptance of any payment shall not be construed as an accord that the amount paid is correct, nor shall such acceptance of payment be construed as a release of any claim the City of Boston may have for additional sums including interest payable under this Section 7.5. All amounts paid shall be subject to audit and recomputation by the City, including, but not limited to RCN's allocation of bundled services to cable service revenues on reasonable advance notice, which shall be based on a fiscal year and shall occur in no event later than three (3) year after the franchise fees are tendered with respect to such fiscal year. If, after audit and recomputations an additional fee is owed to the City, such fee shall be paid within thirty (30) days after audit and recomputations. If, after audit and recomputation, RCN has tendered fees to the City which exceed the sums due under Section 7.1, the City shall repay to RCN such additional fee within thirty (30) days after audit and recomputations. The interest on any such additional fee owed to either RCN or the City shall be charged from the due date at the rate of two percent (2%) above the prime rate or rates of interest at the
State Street Bank during the period that such additional amount is owed.

Section 7.6 Taxes

Payment of the franchise fee made by RCN to the City pursuant to the provisions of this OVS Agreement shall not be considered in the nature of a tax, but shall be in addition to any and all taxes which are now or may be required hereafter to be paid by any law of the Commonwealth of Massachusetts, the City of Boston, or the United States.

Section 7.7 Records

For each period for which Franchise Fees fees are due and payable to the City hereunder, RCN shall calculate such amounts as are due using the Franchise Fee Calculation form annexed hereto as Schedule 4. Said form shall be filed with the City not later than 90 days after the end of each period for which gross revenues are due and payable. At any time, upon the request of the City or its designee, RCN shall make such forms and, if requested, supporting documentation, available to the City. RCN shall retain said documentation for at least three (3) years. All documents submitted by RCN to the City or made available by RCN, including without limitation the Gross Revenue Fee Calculation forms and supporting documentation required by this Section 7.7, shall be kept confidential and utilized by the City only for the purposes set forth in this Agreement. Such documents shall not be disclosed to any other person or used for any purposes other than those expressly contemplated by this Agreement, except as otherwise required by judicial or regulatory authorities having jurisdiction in respect thereof.

SECTION 8

INSURANCE, BONDS AND INDEMNIFICATION

Section 8.1 General

Prior to any System construction or installation and at all times thereafter during the term of this Agreement including the time for removal of facilities provided for herein, RCN shall obtain, pay all

premiums for, and file with the City written evidence of payment of premiums and certificates of insurance evidencing coverage for the following insurance policies and bonds in forms to be approved by the City Corporation Counsel:

(A) A Commercial General Liability policy naming the City, its officers, boards, commissions, agents and employees as additional insureds on all claims on account of injury to or death of a person or persons occasioned by the construction, maintenance, or operation of the System or alleged to have been so occasioned, with a minimum liability of Three Million Dollars ($3,000,000) for injury or death to any one person in any one occurrence and Five Million Dollars ($5,000,000) for injury or death to any two or more persons in any one occurrence.

(B) A property damage insurance policy naming the City, its officers, boards, commissions, agents and employees as additional insureds on all claims for property damage, real or personal, occasioned by the construction, maintenance or operation of the System or alleged to have been so occasioned, with a minimum liability of One Million Dollars ($1,000,000) for damage to the property of any one person in any one occurrence and Two Million Dollars ($2,000,000) for damage to the property of two or more persons in any one occurrence.

(C) A bond running to the City with good and sufficient surety and approved by the City Corporation Counsel in the sum of One Million Dollars ($1,000,000) conditioned upon the faithful performance and discharge of the obligations imposed by this Agreement, including without limitation, satisfaction of the terms and conditions set forth in G.L. c. 166A § 5(k). A performance bond in this amount shall be effective throughout the term of this OVS Agreement including the time for removal of facilities provided for herein, and shall be conditioned that in the event RCN shall fail to comply with any one or more provisions of this Agreement, or to comply with any order, permit or direction of any department, agency, commission, board, division, or office of the City having jurisdiction over its acts, or to pay any claims, liens or taxes due the City which arise by reason of the construction, installation, operation, maintenance or removal of the System, the City shall, absolutely and without objection of RCN, recover from the surety of such bond all damages suffered by the City as a result thereof, within thirty (30) days after written request for same. Said condition shall be a continuing obligation of thisOVS Agreement, and thereafter until RCN has liquidated all of its obligations to the City that may have arisen from the grant of this Agreement or from the exercise of any privilege therein granted. In the event that the City recovers from said surety, RCN shall take immediate steps to reinstate the performance bond to the amount of One Million Dollars ($1,000,000). If, at any time during the term of thisOVS Agreement, the condition of the surety shall change in such manner as to render the bond unsatisfactory to the City Corporation Counsel, RCN shall replace such bond by a bond of like amount and similarly conditioned, issued by a surety satisfactory to the City Corporation Counsel. Neither this Section, any bond accepted pursuant thereto, or any damages recovered thereunder shall limit the liability of RCN under this Agreement.

Section 8.2 Indemnification

RCN shall indemnify and hold the City, its elected officials, officers, employees and agents harmless against all claims in connection with this OVS Agreement, including but not limited to all claims for damage due to the actions of RCN, its employees, officers or agents arising out of the construction, installation, maintenance, operation or removal of the OVS under this OVS Agreement or otherwise arising out of or relating to this RCN, including without limitation, damage to persons or property, both real or personal. The City shall seasonably notify RCN of such claims or actions. The City Corporation Counsel shall evaluate the case for legal defense by the City of Boston Law Department or Special Outside Counsel, as the Corporation Counsel shall determine in his/her sole discretion. In such instance, indemnified expenses shall include reasonable attorneys' fees and costs, and shall be paid in accordance with City of Boston Law Department policies and practices for litigation fees and expenses. In the event Corporation Counsel declines to retain such claim or action for legal defense as aforesaid, RCN shall undertake such legal defense. In such instance, the City, acting by its Corporation Counsel, shall have the right to approve any counsel retained for its defense, which approval shall not be unreasonably withheld. In addition, in any such claim, action or lawsuit against the City of Boston, the City of Boston, acting by its Corporation Counsel, shall retain substantive and procedural control of its legal defense, however supplied, in any such claim, action or lawsuit.

To the extent permitted by the provisions of G.L. Chapters 84 and 258, and any other applicable statutes or ordinances of the City of Boston, the City shall indemnify RCN against all claims for damage due to the actions of the City arising out of the City's use of the OVS. In the event such claims are against the City, the provisions of the preceding paragraph shall apply. In the event such claims are against RCN, Corporation Counsel shall have the right to approve any counsel retained by RCN for RCN's defense, which approval shall not be unreasonably withheld. Indemnified expenses shall include attorneys' fees and costs, and shall be paid in accordance with the City of Boston Law Department's policies and practices for litigation and expenses.

In the event that the City and RCN are co-defendants, the parties shall make a good faith effort to participate in a common defense, but the City reserves the right to have separate counsel provided for its defense if in its sole judgment its interests are not allied with the interests of RCN.

This section is not, as to any third parties, a waiver of any defense or immunity otherwise available to the City.

Section 8.3 No Limitation on Liability

None of the provisions of Section 8 or any insurance policy required herein, or any damages recovered by the City hereunder shall be construed to excuse the faithful performance by or limit the liability of RCN under this Agreement for damages either to the limits of such policies or otherwise.

Section 8.4 Notice of Cancellation or Reduction of Coverage

The insurance policies and bonds required herein shall contain an endorsement stating that the policies are intended to cover the liability assumed by RCN under the terms of this Agreement and shall contain the following endorsement:

It is hereby understood and agreed that this policy must not be canceled, materially changed or the amount of coverage thereof reduced until thirty (30) days after receipt by the City Corporation Counsel by registered mail of one (1) copy of a written notice of such intent to cancel, materially change or reduce the coverage.

If RCN fails to maintain the insurance policies required herein, the Mayor shall have the option to obtain said policies and pay for same from the letter of credit, the performance bond or both.

SECTION 9

SUPPORT FOR PUBLIC, EDUCATIONAL AND MUNICIPAL ACCESS

Section 9.1 Operating Support for Public, Educational and Municipal Access

For the support of Public, Educational and Municipal Access, beginning the date of execution of this Agreement, RCN shall pay to the Boston Charitable Trust, a fiscal intermediary account designated by the City to receive such funds 1.7% of RCN's Gross Revenues for the period ending (on the last day of the first calendar quarter after execution of this Agreement. Thereafter, RCN shall pay to the fiscal intermediary account 1.7% of RCN's Gross Revenues for each succeeding calendar quarter within 90 days after each such quarter; provided that in the payment due during the first quarter of and the first quarter of each year thereafter during the term of the Agreement, RCN shall adjust the amount of the payment so that RCN's payments pursuant to this Section for the previous calendar year equal 1.7% of its annual Gross Revenues.

Section 9.2 Support For Capital Expenditures

(A) In addition to providing the aforementioned PEM operating support, RCN shall pay to the City's fiscal intermediary account the sum of fifty-three cents ($0.53) per subscriber per month provided that RCN shall pay the sum of two and one half cents ($.025) per Hotel or Hospital unit per month, each paid quarterly and tendered within 90 days after the end of each calendar quarter. With each such payment, RCN shall provide the City with a statement showing the number of residential subscribers and Hotel and Hospital units covered by such payment.

(B) For each period for which Capital Contribution Fees are due and payable to the City hereunder, RCN shall calculate such amounts using the Capital Contribution Fee Calculation form appended hereto as Schedule 5. At any time, upon the request of the City or its designee, RCN shall make such forms and, if requested, supporting documentation, available to the City. RCN shall retain said documentation for at least three (3) years. All documents submitted by RCN to the City or made available by RCN for inspection by the City, including without limitation the Capital Contribution Fee Calculation forms and supporting documentation required by this Section 9.2(b), shall be kept confidential and utilized by the City only for the purposes set forth in this Agreement. Such documents shall not be disclosed to any other person or used for any purposes other than those expressly contemplated by this

Agreement, except as otherwise required by judicial or regulatory authorities having jurisdiction in respect thereof.

SECTION 10

CROSS INDEMNIFICATION

As part of RCN's obligations hereunder, RCN shall execute simultaneously a renewal agreement with the Foundation (or any successor thereto) pursuant to which RCN and the Foundation shall each indemnify and hold the other harmless against all claims or judgments for damages against the other party arising out of the programming or any other activity of the indemnifying party. Each party shall obtain an appropriate insurance policy naming the other as additional insured, in an amount not less than One Million Dollars ($1,000,000) and in a form acceptable to the other party, to protect the right of each party under this section. Said agreement shall be substantially in the form of Schedule 3 annexed hereto.

SECTION 11

SUBSCRIBER RIGHTS

Section 11.1 Subscriber Solicitation

In connection with the construction and marketing of the OVS, RCN shall provide the Mayor or his designee with a monthly updated list of the areas in which such solicitations shall take place. Each such representative and all other employees entering upon private property shall be required to wear an employee identification card issued by RCN and bearing a picture of said representative. RCN shall notify the general public of its solicitation in a manner calculated to reach residents in the areas to be solicited in advance of such solicitation.

Section 11.2 Sales Information

RCN shall provide all prospective Subscribers or Users with complete written information concerning all services and rates provided by RCN upon solicitation of service and prior to the consummation of any agreement for installation of service. Such sales material shall clearly and conspicuously disclose the price and other information concerning RCN's least costly service. Such information shall be contained in a "plain English" folder.

Section 11.3 Billing Practices Information

RCN shall inform all prospective Subscribers of complete information respecting billing and collection procedures, procedures for ordering changes in or termination of services, and refund policies, upon solicitation of service and prior to the installation of service. Such information shall be contained in a "plain English" folder.

Section 11.4 Notice of Installation

RCN shall use its best efforts to inform all persons in advance of the date and approximate time its employees or agents shall enter onto such person's property for the purpose of installing OVS.

Section 11.5 Business Office and Operations Center

RCN shall maintain and operate within the City of Boston a business office and operations center for the purposes of receiving and resolving all complaints, including without limitation those regarding service, equipment malfunctions or billing and collection disputes. The business office shall have a publicly listed local telephone number. The business office shall maintain a staff adequate to process complaints, requests for installation, service or repairs, and all other business in a timely and efficient manner. RCN shall maintain a service line which shall be staffed with sufficient customer service employees, twenty-four (24) hours per day, seven (7) days per week to promptly receive customer service calls and document the nature of each such complaint, as well as to receive Subscriber calls for repair service. RCN shall add additional telephone lines and service representatives when existing lines are substantially utilized or when a pattern of Subscriber complaints reflects a need for additional service employees. RCN shall make best efforts to answer, with a customer service employee or representative, an average of ninety percent (90%) of its daily incoming service calls within thirty (30) seconds, measured on a quarterly basis; provided, however, that this shall not apply to extraordinary operating circumstances. Further, except during extraordinary operating circumstances, the customer will receive a busy signal less than three percent (3%) of the time. During periods of construction, RCN shall closely monitor telephone activity and provide the Mayor with monthly reports of traffic, both in terms of answerability and time on hold. RCN shall meet with the Mayor's representative quarterly to evaluate RCN's ability to serve customers adequately with existing staff and telephone lines.

For purposes of this section, "extraordinary operating circumstances" shall mean *force majeure*, as defined in Section 14.8 *infra*.

Section 11.6 Notice of Complaint Procedure

RCN shall periodically, and at various times of the day, present its business office address and publicly listed local telephone number by means of alphanumeric display on a local origination channel.

Section 11.7 Response To Service Complaints

Calls for repair service shall be acted upon (either by resolving the problem or by a service visit) within forty-eight (48) hours when received by RCN prior to 9 P.M. on Mondays through Fridays, and within seventy-two (72) hours when received by RCN prior to 5 P.M. on Saturdays, except on legal holidays in Suffolk County. If RCN is unable to schedule a service call with the subscriber at the time the complaint is first received, or if RCN needs to investigate the complaint, RCN shall respond to the affected subscriber within twenty-four (24) hours. System outages shall be acted upon immediately. For purposes of this section, "system outage" shall mean loss of all channels affecting five (5) or more subscribers in the same sales route. For purposes of this section, a "sales route" is defined as the geographic area within the System limited to one (1) Node used for distribution of cable services to residential subscribers on the OVS.

When a complaint cannot be resolved within seven (7) calendar days after its receipt, RCN shall provide the affected subscriber with an explanation and the expected date of final resolution of said

complaint; provided, however, that in the event that RCN is unable to reach said subscriber by telephone, RCN shall send said subscriber a written explanation. RCN shall log all such complaints and accompanying resolutions and shall provide the Mayor with a quarterly report documenting the same.

RCN shall at all times maintain on call on a twenty-four (24) hour basis, a team of field technicians to repair system outages, as defined above.

Section 11.8 Unresolved Complaints

Should a Subscriber have an unresolved complaint after the seven (7) day period described in Section 11.7 above regarding cable television operations, the Subscriber shall be entitled to file his complaint with the City, which shall have primary responsibility for the continuing administration of the Agreement and the implementation of complaint procedures. A representative of RCN shall be available thereafter to meet jointly with the City and the affected Subscriber, within thirty (30) days after said Subscriber has filed the complaint, to fully discuss and resolve the matter.

Section 11.9 Notice Of Public Meeting

Whenever notice of any public meeting relating to the OVS is required by law or regulation, RCN shall publish notice of same, sufficient to identify its time, place and purpose, in a Boston newspaper of general circulation once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of any such hearing. Said announcement shall be made on the local origination channel of highest viewership on which such announcement is feasible. The notice shall also state that applications, reports and statements filed or prepared for such hearing are available for public inspection during RCN's regular business hours and for reproduction at a reasonable fee.

Section 11.10 Subscriber Privacy Information

Each Subscriber shall be informed, prior to consummation of an agreement for installation of service or use of the System, of the nature of the information which can be transferred over the System, and of applicable privacy requirements as set forth in this Agreement. This information shall be provided in a "plain English" folder.

Section 11.11 Monitoring

Neither RCN or its agents nor the City or its agents shall tap or monitor, arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber outlet or receiver for any purpose, without the prior written or electronic authorization of the affected Subscriber, provided, however, that RCN may conduct systemwide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return path transmission, or billing for pay services or any other purpose necessary to render cable or other services provided by RCN. Agreement shall not record or retain any information transmitted between a Subscriber and any third party, except as required for lawful business purposes. RCN shall destroy all Subscriber information of a personal nature after a reasonable period of time if it is no longer necessary for the purpose for which it was collected except as authorized not to do so by the affected Subscriber.

Section 11.12 Polling by Cable

RCN or its agents shall release the results of upstream responses only in the aggregate and without individual references.

Section 11.13 Distribution of Subscriber Information

Except as permitted in 47 U.S.C. § 551(c)(2), RCN and its agents or employees shall not, without the prior written or electronic authorization of the affected Subscriber, provide to any third party, including the City, data identifying or designating any Subscriber either by name or address. Said authorization may be withdrawn at any time by the Subscriber by providing written or electronic notice to RCN. RCN shall provide annual notice to each Subscriber who has given the aforesaid authorization of such Subscriber's right to withdraw the authorization. In no event shall such authorization be obtained as a condition of service or continuation thereof, except as necessary to adequately provide particular services. This Section shall not apply to written Subscriber complaints filed with RCN as provided in Section 13.4 below.

Section 11.14 Information with Respect to Viewing Habits and Subscription Decisions

Except as permitted by 47 U.S.C. § 551(c)(2), RCN and its agents or employees shall not make available to any third party, including the City, information concerning the viewing habits or subscription package decisions of any individual Subscriber or household without obtaining the Subscriber's prior written or electronic consent. If a court authorizes or orders such disclosure, RCN shall notify the Subscriber of such disclosure within 48 hours. RCN shall provide written notice to each Subscriber when equipment is to be activated on the OVS which would permit the recording or monitoring of individual viewing habits of such Subscriber or Household (except when such equipment has been activated solely to detect theft of service); such equipment shall be installed only after prior written permission has been granted by the Subscriber. In no event shall such permission be obtained as a condition of service or continuation thereof. For any sort of transmission to emanate from a Subscriber's residence or Subscriber Household, the Subscriber must take some positive action to activate such transmission. In the event the service requested by the Subscriber by its nature involves the transfer of information or data from the Subscriber or Household, including without limitation security services, pay per view or data transference, the ordering of the service shall be deemed to include the grant of permission by the Subscriber or Household for the making available of such information to such parties as is necessary for the provision of the service. Except as permitted in 47 U.S.C. § 551(c)(2), written permission shall be obtained from the Subscriber prior to further dissemination or distribution by RCN of such information.

Section 11.15 Privacy Ombudsman

RCN shall, upon receipt of information leading to the reasonable conclusion that there has been a breach of subscriber privacy, immediately notify in writing all parties affected and all appropriate authorities.

All complaints regarding breach of Subscribers' privacy shall be handled pursuant to Section 11.7 above, as amended; RCN shall investigate and report the results of such investigation to the affected parties, and at the request of the affected parties, the Mayor or his designee, and all other appropriate authorities and/or agencies.

Section 11.16 Subscriber Contracts

It is stipulated and agreed by RCN that Sections 11.10, 11.11, 11.12, 11.13 and 11.14 above shall be enforceable directly by every aggrieved Subscriber and by every aggrieved person seeking to become a Subscriber. The Mayor includes the above-referenced Sections as part of this Agreement pursuant to both its governmental obligations to the residents and institutions of Boston, including actual and potential Subscribers, and as the representative of such actual and potential Subscribers.

RCN further agrees that it will not allege or contend that any actual or potential Subscriber or User may not enforce the above-referenced Sections by reason of lack of privity.

Section 11.17 Regulatory Requirements

RCN shall comply with all Federal Customer Service Regulations which are not inconsistent with the terms of this Agreement.

SECTION 12

EMPLOYMENT, TRAINING AND PROCUREMENT

Section 12.1 Equal Employment Opportunity

RCN shall be an Equal Opportunity Employer adhering to all federal, state or municipal laws and regulations. Pursuant to 47 CFR § 76.73 *et seq*. and other applicable regulations of the FCC, RCN shall file an Equal Employment Opportunity/Affirmative Action Program with the FCC and otherwise comply with all FCC regulations with respect to Equal Employment Opportunities.

Section 12.2 Employment Policy

As part of its obligation under Section 12.1 above, RCN shall take affirmative action to employ, during the construction of the System, at least thirty percent (30%) minorities and at least thirty percent (30%) women and at least sixty percent (60%) Boston residents; provided, however, that to the extent that any statute or final judicial decision applicable to the City of Boston declares that a governmental entity may not promulgate a law or regulation imposing a local residence requirement as a condition of doing business with such governmental entity, the residence requirements set forth above shall not apply. Said percentages shall be computed using the total number of anticipated employee hours on a craft-by-craft basis. The Mayor or his designee shall provide such assistance as RCN may reasonably request in its effort to comply with this section.

As part of its obligation under Section 12.1 above, RCN shall take affirmative action to employ during the operation or maintenance of the System at least thirty percent (30%) Minorities, at least thirty percent (30%) women and at least sixty percent (60%) Boston residents; provided, however, that to the extent that any statute or final judicial decision applicable to the City of Boston declares that a governmental entity may not promulgate a law or regulation imposing a local residence requirement as a condition of doing business with such governmental entity, the residence requirement set forth above shall not apply. Said percentages shall apply to the each of the following personnel categories:

operational, management and clerical. The Mayor or his designee shall provide such assistance as RCN may reasonably request in its efforts to comply with this subsection.

Section 12.3 Employment Advertisement

During the periods of substantial hiring, RCN shall advertise all available employment positions. In advertising such positions, RCN shall endeavor to reach specific neighborhoods and ethnic groups through the use of community, weekly or special interest publications.

Section 12.4 Procurement

For all services, materials or equipment purchased for the construction, operation or maintenance of the OVS, RCN shall make its best efforts to purchase ten percent (10%), by dollar volume, from competitively priced and otherwise qualified Minority businesses located in the City of Boston. The following materials or equipment shall be excluded from said obligation: amplifiers; headend equipment, including without limitation, computer operated video switches, processors, and modulators; earth station equipment, including without limitation, antennas, receivers, and low noise amplifiers; and distribution equipment, including without limitation, taps, amplifiers, splatters and converters.

RCN shall use Boston based businesses whenever prices, terms and conditions quoted by such companies are no less favorable than those of non-Boston based businesses. The Mayor or his designee shall have the right to require RCN to demonstrate periodically its efforts to comply with this Section.

Section 12.5 Employment and Procurement Verification Reports

RCN shall submit all required reports, residency verification materials to the Mayor's Office of Cable and Video Service within 90 days of the end of each calendar year.

SECTION 13

ADMINISTRATION AND REGULATION

Section 13.1 Performance Evaluation Sessions

The City and RCN shall hold annual performance evaluation sessions, the first session to be held within thirty (30) days of the anniversary of the execution of this Agreement. All such evaluation sessions shall be open to the public.

RCN shall notify its Subscribers of all evaluation sessions by announcement on at least one (1) channel of its System between the hours of 7:00 P.M. and 9:00 P.M., for five (5) consecutive days preceding each session.

During review and evaluation by the City, RCN shall fully cooperate with the City.

Section 13.2 Equal Time

To the extent required by law, if RCN permits any person who is a legally qualified candidate for any public office to employ the facilities of its System to originate or disseminate political campaign material, it shall afford equal opportunities to all other such candidates for the same office. All paid political announcements or programs on a leased channel shall be designated as such and shall identify the person paying for same at the time said announcement or program is cablecast. To the extent required by law, if RCN permits any person to originate or disseminate any views concerning a controversial issue of public importance, it shall afford reasonable opportunity for the presentation over its facilities of contrary points of view.

Section 13.3 Nondiscrimination

RCN shall not discriminate against any person in its solicitation, service or access activities on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age, marital status, or status with regard to public assistance. RCN shall be subject to all other requirements of federal, state or existing local laws, regulations and all executive and administrative orders relating to nondiscrimination through the term of this Agreement.

Section 13.4 Subscriber Complaints

RCN shall keep all written Subscriber complaints it receives on file in its business office for a minimum of one (1) year after receipt. Subject to subscriber privacy provisions in 47 U.S.C. § 551, the Mayor or his designee shall have the right to examine, review and copy said complaints at his own expense, during RCN's business hours upon reasonable notice.

Section 13.5 Response to Inquiries

The Mayor may, at any time, make reasonable inquiries concerned with the management and affairs of the OVS. RCN shall respond to such inquiries in a timely fashion.

Section 13.6 Emergency Removal of Plant

If, at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgment of the Mayor or any designee, to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the OVS, the City shall have the right to do so at the sole cost and expense of RCN.

Section 13.7 Removal and Relocation

The Mayor shall have the power at any time to order and require RCN to remove or relocate any pole, wire, cable, or other structure that is unnecessarily dangerous to life or property. In the event that RCN, after notice, fails or refuses to act within a reasonable time, the Mayor shall have power to remove or relocate the same at the sole cost and expense of RCN. Restoration to original condition shall be made by RCN in accordance with Schedule 3.

Section 13.8 Inspection

The Mayor or his designee shall have the right to inspect, inventory, or appraise the plant, equipment, and other property of RCN. RCN shall fully cooperate and otherwise assist in these activities.

Section 13.9 Obscenity

RCN shall be subject to all applicable laws and regulations relating to obscenity.

Section 13.10 Quarterly Performance Test

The following proof of performance tests shall be made upon activation of the 860 MHz OVS and on a quarterly basis to ensure compliance with Section 4.9 above: signal level of video carrier of each active channel; system signal to noise level measured at a low and high VHF; channel and system signal to hum modulation measured at any one frequency. The costs of such tests shall be borne by RCN.

Section 13.11 Annual Performance Test

Performance requirements and standards specified in Section 4.9 above shall be measured annually to ensure compliance with same. The costs of such tests shall be borne by RCN.

Section 13.12 Quality of Service

Where there exists other evidence which in the judgment of the Mayor casts doubt upon the reliability or technical quality of cable service, the Mayor shall have the right and authority to require RCN to test, analyze, and report on the performance of the System. RCN shall fully cooperate with the Mayor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information:

(A) the nature of the complaint or problem which precipitated the special tests;

(B) the system component tested;

(C) the equipment used and procedures employed in testing;

(D) the method, if any, in which such complaint or problem was resolved; and

(E) any other information pertinent to said tests and analysis which may be required.

The Mayor may require that tests be supervised by a professional engineer who is not an employee or agent of RCN. RCN shall pay for the costs of such engineer if the tests performed show that the quality of service is below the standards set forth in Section 4.9 above.

Section 13.13 Revocation of OVS Agreement

For the breach of any of the following provisions of this Agreement, liquidated damages shall be paid by RCN within thirty (30) days after request for same by the Mayor in writing:

(A) For failure to meet any deadline prescribed in Sections .21, 2.3 and 2.4, *supra*, One Thousand Dollars ($1,000) per day, or part thereof, until RCN provides the appropriate written certification that it has complied with each deadline.

(B) For failure to test on the performance of the System in accordance with Sections 13.10, 13.11 and 13.12 *supra*, One Hundred Fifty Dollars ($150) per day for each day, or part thereof, that such noncompliance continues.

(C) For failure to make the drops, One Hundred Fifty Dollars ($150) per day, or part thereof, that such drop(s) have not been installed as required.

Such liquidated damages shall be chargeable, to the extent available, to the letter of credit if not tendered by RCN within the aforesaid period of time. The provisions of this Section shall be in addition to the provisions of Section 13.14 below and shall be subject to Section 13.14 subsections (a)(i) and (ii) below.

Section 13.14 Determination of Breach

(A) In the event that the Mayor has reason to believe that RCN has defaulted in the performance of any provision of this Agreement, except as excused by *force majeure*, the Mayor shall notify RCN in writing of the provision or provisions which the Mayor believes may be in default. RCN shall have fourteen (14) days from the receipt of such notice to:

(i) respond to the Mayor in writing, contesting the Mayor's assertion of default and providing such information or documentation as may be necessary to support RCN's position; or

(ii) cure any such default or, in the event that, by the nature of the default, such default cannot be cured within such thirty (30) period, take steps satisfactory to the Mayor to cure the default and diligently continue such efforts until said default is cured. RCN shall report to the Mayor, in writing, at (30) thirty day intervals as to RCN's efforts, indicating the steps taken by RCN to cure the default and reporting RCN's progress until such default is cured.

(B) In the event that fourteen days after the RCN's receipt of notice pursuant to this subsection, the Mayor determines that RCN remains in default of any such provision of this Agreement, the Mayor may request liquidated damages and also determine to pursue any or all of the following remedies:

(i) foreclose on all or any part of the security provided pursuant to this Agreement, including without limitation the performance bond or the letter of credit;

(ii) commence an action at law for monetary damages;

(iii) declare the Agreement to be terminated subject to Section 13.14 above, and applicable law; or

(iv) seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

Section 13.15 Non-Exclusivity of Remedy

No decision by the Mayor or the City to invoke any remedy under this Agreement or under any statute, law or ordinance shall preclude the availability of any other such remedy.

Section 13.16 Arbitration

All disputes, controversies or differences which may arise between the RCN and the City concerning compliance with construction schedules or computation of franchise fee shall be finally settled by arbitration in Boston, Massachusetts in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The decision of such arbitration shall be binding upon RCN and the City of Boston. The expenses of the arbitrators shall be borne equally by the parties.

Section 13.17 Jurisdiction

Exclusive jurisdiction and venue over entry of judgment, on any arbitration award rendered pursuant to Section 13.16 or over any dispute, action or suit arising therefrom shall be in any court of appropriate subject matter jurisdiction located in the Commonwealth of Massachusetts, County of Suffolk, and the parties by this instrument subject themselves to the personal jurisdiction of said court, for the entry of any such judgment and for the resolution of any dispute, action, or suit arising in connection with the entry of such judgment.

SECTION 14

MISCELLANEOUS PROVISIONS

Section 14.1 Agreement as Contract Under Seal

Upon its execution by the Mayor and RCN this Agreement shall be deemed to constitute a contract under seal by and between RCN, on the one hand, and the Mayor of the City of Boston, on the other hand.

Section 14.2 Entire Agreement

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and may not be changed except in accordance with the following procedure. RCN shall cause a notice of the proposed amendments to be published in a newspaper of general circulation in Boston for at least two weeks prior to execution of the amendment. RCN shall also cause a concise summary of the proposed amendments to appear at least once daily on each of eight days during the period of newspaper notice. Said notices shall invite public comment on the proposed amendments. No amendment shall be effective unless it is in writing and signed by both parties subsequent to the notice and comment period described herein.

Section 14.3 Captions

The captions to sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this OVS Agreement.

Section 14.4 Separability

If any section, sentence, paragraph, term or provision of this Agreement is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Agreement or any renewal or renewals thereof.

Section 14.5 Grandfather Rights

Nothing contained in this Agreement shall be construed to deprive RCN or the Mayor of any "grandfather" rights in any future amendments to any statute or regulation.

Section 14.6 Impairment

To the extent that any City law, ordinance or regulation hereafter enacted or promulgated affects in any way RCN's obligations under this Agreement, nothing herein shall be construed to limit RCN's right to contest such law, ordinance or regulation on any ground, including without limitation, the ground that the law, ordinance or regulation constitutes an unauthorized impairment of RCN's rights under this Agreement.

Section 14.7 Notice

Every notice to be served upon the City shall be sent by certified mail, postage prepaid, to the Mayor and the City Corporation Counsel. Every notice to be served upon RCN shall be sent by certified mail, postage prepaid, to RCN at its South Boston office and to its Counsel.

Section 14.8 Force Majeure

If by reason of *force majeure* either party is unable in whole or in part to carry out its obligations hereunder, said party shall not be deemed in violation or default during the continuance of such inability. The term "*force majeure*" as used herein shall mean the following: strikes, acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots, epidemics; landslides; lightning; earthquakes; fares; hurricanes; volcanic activity; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the disabled party.

Section 14.9 Registration of Vehicles

RCN shall register all of the vehicles regularly used in connection with or assigned to the Boston OVS in the City of Boston and pay excise tax thereupon to the City.

IN WITNESS WHEREOF, this Agreement is hereby signed by the parties duly authorized, as of this 16th day of July, 2010, at Boston, Massachusetts.

CITY OF BOSTON

By: _____

Thomas M. Menino
Mayor

Approved as to Form:

William F. Sinnott
Corporation Counsel

RCN-BecoCom Inc.

By: _____
Richard Wadman
Senior Vice President & General Manager

By: _____
Thomas K. Steel, Jr.
Vice President & Regulatory Counsel

SCHEDULE 1

LIST OF FACILITIES TO RECEIVE FREE CONNECTIONS

RCN will assume the cost of installation, up to $10,000, for all facilities listed below, which shall receive or will receive a free connection, and free basic service, to the subscriber network. All data services provided by the RCN will be paid for at a rate to be negotiated in the future.

Fire Stations (including Engine Companies)
Police Stations
Public Libraries (including all branches)
Community Centers
Public, Private & Parochial Schools (elementary and secondary)
City Administrative Offices
Boston Medical Center Health Centers (e.g. Codman Sq., Dorchester House, East Boston, Mattapan, Dimock, Fenway, Harvard St., South Cove, South Boston, Upham's Corner, Whittier Street, Boston Evening, Roxbury, Roslindale, Joseph Smith, South End)
Parks and Recreation Administrative Offices and Clubhouses
BHA Youth & Community Centers
Action for Boston Community Development
Bird Street Community Center
Boys and Girls Clubs (Blue Hill Ave., Charlestown, Colonel David Marr, Roxbury, South Boston)
Dorchester Youth Collaborative
Federated Dorchester Neighborhood House
Greater Boston YMCA (including Hyde Park, Dorchester, Allston/Brighton, Roxbury, West Roxbury/Roslindale, Egleston Square, South End)
Grove Hall Youth Center
Hattie B. Cooper Community Center
Holland Community Center
Inquilinos Boricuas en Accion
Mission Hill Community Center
Nuestra Communidad Development Corp.
Orient Heights Neighborhood Organization
Reggie Lewis Track and Field Center
Southwest Boston Senior Services

SCHEDULE 2

PUBLIC WORKS DEPARTMENT PROCEDURES

A. Initial Underground Installation.

1. RCN or its designee shall submit to the Public Improvement Commission three (3) copies of RCN's plans, scale - 1" = 20', showing the location of the proposed duct system, all existing utilities and structures, curb lines and street lines. When structures or conduits affect the sidewalk area, building fronts, doors and overhanging structures shall be included.

2. These plans shall be reviewed by the Public Improvement Commission Highway Division, Engineering Division, Permit Branch and the Traffic and Parking Department. The Permit Branch shall estimate the pavement restoration deposit and set the permit fee.

3. After the Public Improvement Commission hearing is held and the Mayor's approval is obtained the grant of location shall be given to RCN.

4. Permits shall be issued when the restoration deposit and permit fees are tendered by.

5. Upon completion of RCN's work at a location, shall submit a location sketch with trench measurements to the Permit Branch. The Permit Branch shall have the right to verify RCN's measurements.

6. When the Public Works Department completes the permanent repairs, a final deposit adjustment shall be made.

B. Emergency Permit.

When time does not allow the issuance of a permit because of emergency conditions, RCN may commence work; provided, however, RCN must notify the City within twenty-four (24) hours of permit issuance.

C. Blanket Occupation Permit.

A permit to occupy public and places shall be issued annually in accordance the Department's regular procedure.

D. Pedestals.

The use of pedestals or any surface-mounted structures shall be forbidden without the prior written consent of the Commissioner of Public Works.

E. Manholes, Handholds And All Other Subsurface Structures.

The use and location of all manholes, handholds and all other subsurface structures shall be approved by the Public Works Department prior to their use.

SCHEDULE 3

FOUNDATION CONTRACT

AGREEMENT

THIS AGREEMENT is made and entered into as of this 16th day of July, 2010 by and between THE BOSTON COMMUNITY ACCESS AND PROGRAMMING FOUNDATION, INC., a charitable corporation organized under G.L. c. 180 and RCN-BecoCom, Inc., a company organized under the laws of the Commonwealth of Massachusetts:

WITNESSETH

WHEREAS, RCN-BecoCom, Inc. (hereinafter referred to as "RCN"), has been certificated by the Federal Communications Commission to provide OVS Services to residential and commercial customers in the City of Boston; and

WHEREAS, RCN has entered into an operating agreement with the City of Boston to provide OVS Services in the City until July 16, 2020; and

WHEREAS, The Boston Community Access and Programming Foundation, Inc. (hereinafter referred to as the "Foundation") is a charitable corporation organized and operating pursuant to the laws of the Commonwealth of Massachusetts; and

WHEREAS, the Foundation shall direct and limit its activities to the achievement of the purposes set forth in the Foundation's Articles of Organization and By-Laws as they may be amended from time to time in accordance with Chapter 180 of the General Laws of the Commonwealth of Massachusetts, as amended, and toward that end the Foundation shall not present programming which serves no purpose other than to pose competition for RCN; and

WHEREAS, the Foundation shall provide a valuable service without which RCN would be required to make a substantial investment to meet the public access requirements of the City of Boston;

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound the parties agree as follows:

1. The capitalized terms used herein, unless otherwise defined, shall have the same meanings as capitalized terms have in the OVS Agreement signed by the City of Boston and RCN of even date herewith.

2. RCN and the Foundation shall each indemnify and hold the other harmless against all claims or judgments for damages against the other party arising out of the programming or any other activity of the indemnifying party. Each party shall obtain an appropriate insurance policy naming the other as coinsured, in an amount not less than One Million Dollars ($1,000,000) and in a form acceptable to the other party, to protect the rights of each party.

3. This agreement shall terminate on July 16, 2020 or at such earlier time as the OVS Agreement between the City and RCN may terminate; upon the adjudication of the bankruptcy of the Foundation, except that this shall not apply to a filing under Section 11 of the Bankruptcy Act; or at such time as the Foundation ceases to be a charitable corporation under the laws of the Commonwealth of Massachusetts.

4. Upon its execution, this contract shall be deemed to constitute a contract under seal by and between RCN, on the one hand, and the Foundation on the other hand.

5. If any Section, sentence, paragraph, or provision of this agreement is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction in the Commonwealth of Massachusetts or by any state or federal regulatory agency having jurisdiction thereof such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof.

6. Every notice to be served upon the Foundation shall be sent by certified mail, postage prepaid, to the Foundation and its counsel. Every notice to be served upon RCN shall be sent by certified mail, postage prepaid to RCN's Boston business office and its counsel.

IN WITNESS WHEREOF, this agreement is hereby signed and sealed by the parties, duly authorized, this 16th day of July 16, 2010 at Boston, Massachusetts.

THE BOSTON COMMUNITY
ACCESS AND PROGRAMMING
FOUNDATION, INC.

CURTIS HENDERSON JR., GENERAL MANAGER.

RCN-BecoCom, Inc.

By: _____
Thomas K. Steel, Jr.
Vice President & Regulatory Counsel

Glenn A. Williams PRes