

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA,
WASHINGTON, APPROVING AN INTERLOCAL AGREEMENT BETWEEN
THE CITY OF OLYMPIA, CITY OF LACEY, CITY OF TUMWATER, AND
THURSTON COUNTY FOR CABLE FRANCHISE CONSULTING SERVICES**

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; provided, that such contract shall be authorized by the governing body of each party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the cities of Olympia, Lacey, and Tumwater, and Thurston County (the Parties) wish to enter an interlocal agreement for joint negotiation with Comcast Cable Communications Management, LLC (Comcast) for the renewal of each jurisdiction's cable franchise and to share collective costs; and

WHEREAS, by sharing the costs of negotiation, the jurisdictions will each pay based on a pro-rata basis determined by the number of subscribers within each jurisdiction: Thurston County 46.17%, Lacey 19.09%, Olympia 24.14%, and Tumwater 10.60%; and

WHEREAS, the parties to the proposed Interlocal Agreement for Consulting Services believe it is mutually beneficial to share in the collective cost of negotiation with Comcast and provide a joint franchise that provides local consistency in cable franchise customer service and right-of-way activities;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the form of Interlocal Agreement for Consulting Services between the City of Olympia, City of Lacey, City of Tumwater, and Thurston County, attached hereto as Exhibit A and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the Interlocal Agreement for Consulting Services and to make any minor modifications as may be required and are consistent with the intent of the attached Interlocal Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2018.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

EXHIBIT A

INTERLOCAL AGREEMENT FOR CONSULTING SERVICES

This Interlocal Agreement ("Agreement") is entered into pursuant to the authority of chapter 39.34 RCW in duplicate originals, between the Cities of Lacey, Olympia, Tumwater, and Thurston County, Washington, collectively referred to as "Jurisdictions" and individually as "Jurisdiction." In consideration of the terms, conditions, covenants, and performances contained herein, it is mutually agreed by the Jurisdictions as follows:

1. Purpose

The Jurisdictions agree that it is mutually beneficial to share in the collective cost of negotiating with Comcast Cable Communications Management, LLC ("Comcast") jointly rather than individually for the purposes of renewing each Jurisdiction's cable franchise. By doing so, the cost of negotiating with Comcast will be incrementally reduced for each Jurisdiction. To that end, the Jurisdictions have agreed to participate in the Professional Services Agreement for Consulting Services ("Consultant Agreement"), which includes its consultants and subconsultants Scope of Work, all attached hereto as Exhibits A and A-1 and incorporated herein by reference. All references in this Agreement to Exhibit A includes the references to Exhibits A and A-1 collectively.

2. Term

The term of this Agreement shall be effective upon the approval of the last Jurisdiction's governing body, and shall be effective through December 31, 2019, unless extended by agreement of the Jurisdictions. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

3. Payment and Scope of Work

The total cost, including but not limited to, legal, financial and technical fees necessary to complete cable franchise negotiations between Comcast and the Jurisdictions will be paid by the Jurisdictions on a per subscriber basis according to Exhibit B, attached hereto and incorporated herein by reference. Based on the current subscriber data in Exhibit B, Thurston County will pay 46.17%, Lacey 19.09%, Olympia 24.14%, and Tumwater 10.60% of the total costs.

The Jurisdictions agree to the scope of work and costs associated with the work set out in the Consultant Agreement. The Jurisdictions agree that should the work set out in Exhibit A be extended due to longer than anticipated negotiations with Comcast, each Jurisdiction agrees to pay the increase in associated costs according to the above percentages allocated to each Jurisdiction.

4. Lead Agency

Thurston County will act as the Lead Agency on behalf of the Jurisdictions in administering the Consultant Agreement. The Lead Agency will submit invoices to each Jurisdiction for their share of the costs according to Exhibit B for work performed under the

Consultant Agreement. Each Jurisdiction will remit payment to the Lead Agency no later than 30 days from the date of the invoice.

5. Relationship of the Jurisdictions

This Agreement is for the benefit of the Jurisdictions, and no third party beneficiary relationship is intended. No separate legal entity is created by this Agreement. No administrator or joint board is created by this Agreement, although Thurston County will be the Lead Agency for the purposes set out in paragraph 4 herein. No common budget is to be established. No personal or real property is to be jointly acquired or held.

6. Indemnification and Hold Harmless

To the extent permitted by law, each Jurisdiction agrees to indemnify, defend and hold harmless the other Jurisdictions, their officers, officials, employees, agents, and volunteers from and against any and all claims, demands, damages, losses, actions, liabilities, expenses and judgments of any nature whatsoever, including without limitation, court and appeal costs and attorneys' fees, to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, caused by or arising out of any negligent act, errors, or omissions, of that Jurisdiction, its employees, agents, or volunteers or arising out of, in connection with, or incident to that Jurisdiction's performance or failure to perform any aspect of this Agreement.

The Jurisdictions waive their immunity under the Washington State Industrial Insurance Act, Title 51 RCW, to the extent required by this indemnification and hold harmless provision. Provided, however, the foregoing waiver shall not in any way preclude a Jurisdiction from raising such immunity as a defense against any claim brought against a Jurisdiction by any of the Jurisdiction's respective employees. This waiver has been mutually negotiated by the Jurisdictions.

The provisions of this section shall survive the completion or expiration of this Agreement or termination whether termination is by all Jurisdictions, or by one or more Jurisdictions.

7. Amendments

This Agreement may be amended only by mutual written agreement of all Jurisdictions executed by each Jurisdiction's authorized governing authority as provided in chapter 39.34 RCW.

8. Termination

This Agreement may be terminated as to any single Jurisdiction when the terminating Jurisdiction provides written notice to all other Jurisdictions, as set out in Paragraph 9, at least 60 days prior to its intended withdrawal from this Agreement. Upon the effective date of termination by a Jurisdiction, the distribution of costs shall be reallocated between the non-terminating Jurisdictions as set forth in Paragraph 3 herein. The withdrawing Jurisdiction agrees to be responsible for its share of any costs incurred or encumbered pursuant to this Agreement or the Consultant Agreement through the effective date of such withdrawal.

9. Jurisdiction Representative

The following are designated as representatives of the respective Jurisdictions. Notice provided for in this Agreement shall be sent to the designated representatives by certified mail to the addresses set forth below. Notice will be deemed received three business days following posting by the U.S. Postmaster.

City of Lacey, c/o City Manager, P.O. Box 3400, Lacey, WA 98509

City of Olympia, c/o City Manager, P.O. Box 1967, Olympia, WA 98507

City of Tumwater, c/o City Administrator, 555 Israel Road SW, Tumwater, WA 98501

Thurston County, c/o County Manager, 2000 Lakeridge Drive SW, Olympia, WA 98502

10. Governing Law and Venue

This Agreement has been and shall be construed as having been made and delivered within the state of Washington, and it is agreed by each Jurisdiction hereto that this Agreement shall be governed by the laws of the state of Washington both as to its interpretation and performance. Any action of law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

11. Severability

If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the Jurisdictions' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement is in direct conflict with any statutory provision of the state of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

12. Entire Agreement

The Jurisdictions agree that this Agreement including Exhibit A and Exhibit B is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.

13. Non-Waiver of Rights

The Jurisdictions agree that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

14. Equal Opportunity to Draft

The Jurisdictions have participated and had an equal opportunity to participate in the drafting of this Agreement and Exhibit A. No ambiguity shall be construed against any Jurisdiction upon a claim that that Jurisdiction drafted the ambiguous language.

IN WITNESS WHEREOF the Jurisdictions hereto have caused this Agreement to be executed according to the terms written above and on the date set out below.

CITY OF LACEY

Scott Spence, City Manager Date

Approved as to form:

David Schneider, City Attorney

CITY OF OLYMPIA

Steven R. Hall, City Manager Date

Approved as to form:

Mark Barber, City Attorney

CITY OF TUMWATER

Pete Kmet, Mayor Date

Approved as to form:

Karen Kirkpatrick, City Attorney

THURSTON COUNTY

Bud Blake, Chair of the Board of Date
County Commissioners

Approved as to form:
Jon Tunheim, Prosecuting Attorney

By: _____
Deputy Prosecuting Attorney

**EXHIBIT A TO
INTERLOCAL AGREEMENT FOR CONSULTING SERVICES

PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTING SERVICES**

This Professional Services Agreement ("Agreement") is effective this __ day of March, 2018. The parties ("Parties") to this Agreement are Thurston County, Washington ("Thurston County"), the City of Lacey, Washington ("Lacey"), the City of Tumwater, Washington ("Tumwater"), and the City of Olympia, Washington ("Olympia") (collectively referred to as the "Local Governments"), and Kissinger and Fellman, P.C., a Colorado Professional Corporation ("Contractor").

A. The Local Governments seek the temporary professional services of a skilled independent contractor capable of working without direct supervision, in the capacity of consulting services relating to cable franchising and related telecommunications matters; and

B. The Contractor has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree as follows:

1. Services.

Contractor shall provide consulting services relating to cable franchising and telecommunications matters as described in the Scope of Work attached as Exhibit A-1 and incorporated herein by reference ("Services"), in a manner consistent with the accepted practices for other similar services, performed to the Local Governments' satisfaction, within the time period prescribed by the Local Governments.

2. Term.

The term of this Agreement shall commence upon the effective date of this Agreement and shall continue until the completion of the Services, but in any event no later than December 31, 2019 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the Local Governments and the Contractor.

3. Termination.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause, by the Local Governments.

4. Compensation.

4.1 Total Compensation. In consideration of the Contractor performing the Services, the Local Governments agree to pay the Contractor an amount not to exceed One hundred seven thousand and three hundred seventy Dollars (\$107,370) pursuant to the Scope of Work, attached hereto as Exhibit A-1, and calculated on the basis of the following hourly labor charge rate schedule for Contractor:

Kenneth Fellman	\$290.00 Per Hour
Brandon Dittman	\$175.00 Per Hour
Subconsultants at fixed fees as set forth in Exhibit A-1	

4.2 Method of Payment. Payment by the Local Governments for the Services will only be made after the Services have been performed, a voucher or invoice is submitted in the form specified by the Local Governments, which invoice shall specifically describe the Services performed, the name of Contractor's personnel performing such Services, the hourly labor charge rate for such personnel, and the same is approved by the appropriate Local Governments representative. Payment shall be made on a monthly basis, thirty (30) days after receipt of such voucher or invoice.

4.3 Contractor Responsible for Taxes. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. Compliance with Laws.

Contractor shall comply with and perform the Services in accordance with all applicable federal, state, and Local Governments laws including, without limitation, all City and County codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

6. Warranty.

The Contractor warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the Local Governments by obtaining a business registration, if required by local law.

7. Independent Contractor/Conflict of Interest.

The Contractor's Services shall be furnished by the Contractor as an independent contractor and that the Local Governments shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or

other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the Local Governments, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Contractor may or will be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services for the Local Governments.

8. Indemnification and Hold Harmless.

8.1 Contractor. The Contractor agrees to indemnify, defend and hold the Local Governments, their elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, damages, losses, actions and liabilities (including without limitation costs and all attorneys' fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the acts, errors or omissions of the Contractor, its partners, shareholders, agents, employees, or by the Contractor's breach of this Agreement. Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs, and the indemnification and agreement to defend and hold harmless contained herein expressly includes any and all claims by employees, subcontractors, and assignees of Contractor or for which Contractor would otherwise have immunity under the Worker's Compensation Act or any similar law in the absence of Contractor's waiver of such immunity herein. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the Parties.

8.2 Local Governments. To the extent permitted by law, the Local Governments agree to indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, damages, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the Local Governments, their employees or agents. Nothing herein shall be construed as a waiver of any governmental immunity by the Local Governments or its employees as provided by statute or court decisions.

8.3 Survival. The provisions of this Section shall survive the completion, expiration or termination of this Agreement.

9. Nondiscrimination.

In all Contractor services, programs or activities, and all Contractor hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by Contractor or by Contractor's employees, agents, subcontractors or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, ethnicity, religion, national origin, marital status, veteran or military status, sexual orientation or the presence of any disability. Contractor shall comply with Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and any other applicable federal, state or local law or regulation regarding non-discrimination.

10. Confidentiality.

The Contractor, its employees, agents, and subcontractors and their employees, shall maintain the confidentiality of all information provided by the Local Governments or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the Local Governments or an order entered by a court of competent jurisdiction. The Contractor shall promptly give the Local Governments written notice of any judicial proceeding seeking disclosure of such information. Breach of confidentiality by Contractor may be grounds for immediate termination.

11. Insurance.

11.1 Workers' Compensation. Contractor is a Colorado professional corporation. Contractor carries workers' compensation insurance through State Farm Insurance Companies. Contractor is in compliance with all of the workers' compensation laws of the State of Colorado.

11.2 Commercial General Liability Insurance.

- A. Products and completed operations liability is covered under Contractor's professional liability insurance.
- B. Automobile liability is not covered since Contractor does not own any automobiles.
- C. Stop Gap or employers contingent liability is covered under Contractor's workers' compensation insurance.

11.3 Automobile Liability Insurance. Contractor does not own any automobiles, and will not be driving as part of its work hereunder; therefore automobile liability insurance is not required by this Agreement.

11.4 Professional Liability Insurance. Professional liability insurance with limits of

liability not less than \$1,000,000 per claim and \$1,000,000 policy aggregate limits, for damages sustained by reason of or in the course of operation under this Agreement, whether occurring by reason of acts, errors or omissions of the Contractor. The Contractor agrees that the coverages required herein will not be terminated or materially amended during the Term of this Agreement, except after forty-five (45) days prior written notice to the Local Governments. Such written notice may be provided by Contractor or its insurance broker. Contractor's failure to maintain this policy shall be grounds for the Local Governments' immediate termination of this Agreement. Contractor's insurance policies must contain provisions that permit Contractor to purchase tail (extended reporting period) coverage if such coverage is canceled or not renewed for any reason. Contractor shall at all times maintain its professional liability insurance policy so that required coverages will be in effect at all times during the term of this Agreement and for a minimum period of three (3) years thereafter.

11.5 Certificates of Insurance. Contractor shall provide certificates of insurance evidencing coverage required herein and, at Local Governments' request, furnish the Local Governments with copies of all insurance policies and with evidence of payment of premiums or fees of such policies.

11.6. Insurance Limits. The insurance limits stated above are not intended to be an indication of exposure nor are they limitations on indemnification.

11.7 Survival. The provisions of this Section shall survive the completion, expiration or termination of this Agreement.

12. Ownership of Materials/Work Produced.

All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media or material which may be produced or modified by Contractor while performing the Services shall belong to the Local Governments. At the termination or cancellation of this Agreement, all originals and copies of any such work product remaining in the possession of Contractor shall be delivered to the appropriate representative of the Local Governments.

13. Inspection of Books and Records and Retention.

The Local Governments or their authorized representatives may, at reasonable times, inspect and audit the books and records of the Contractor relating to the performance of this Agreement. This includes work of Contractor, any subcontractor or any other person or entity that performed connected or related work under this Agreement. Such inspection and audit shall occur in Thurston County, Washington, or other reasonable locations that the Local Governments select. The Contractor shall supply or permit the Local Governments to copy such books and records. The Contractor shall ensure that inspection, audit and copying rights of the Local Governments is a condition of any subcontract, agreement or other arrangement under which any

other persons or entity may perform work under this Agreement. The Contractor shall keep all books and records required by this Agreement for six years after termination or expiration of this Agreement. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

14. Non-Appropriation of Funds.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the Local Governments will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the Local Governments in the event this provision applies.

15. General Provisions.

15.1 Entire Agreement. This Agreement including Exhibit A-1 contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

15.2 Modification. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

15.3 Severability. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the Parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement is in direct conflict with any statutory provision of the state of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

15.4 Assignment. Neither the Contractor nor the Local Governments shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

A. If the Contractor desires to assign this Agreement or subcontract any of its work hereunder, the Contractor shall submit a written request to the Local Governments for approval not less than fifteen (15) days prior to the commencement date of any proposed assignment or subcontract.

B. Any work or services assigned or subcontracted for hereunder shall be subject to each provision of this Agreement.

C. Any technical/professional service subcontract not listed in this Agreement, which is to be charged to the Agreement, must have prior written approval by the Local Governments.

D. The Local Governments reserve the right to inspect any assignment or subcontract document.

15.5 Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

15.6 Attorney Fees and Venue. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Thurston County, Washington.

15.7 No Waiver. The Parties agree that the excuse or forgiveness of performance or waiver of any provision(s) of this Agreement does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving Party to enforce any of the provisions of this Agreement at a later time.

15.8 Governing Law. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the state of Washington.

15.9 Authority. Each individual executing this Agreement on behalf of the Local Governments and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Contractor or the Local Governments.

15.10 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, registered or certified mail, return receipt requested, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing or immediately if personally served.

15.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

15.12 Performance. Time is of the essence in the performance of this Agreement. Adherence to completion dates set forth in Exhibit A-1 is essential to the Contractor's performance of this Agreement.

15.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the Local Governments at law, in equity or by statute.

15.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

15.15 Equal Opportunity to Draft. The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement and the determination of the Scope of Work described in Exhibit A-1. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

DATED the day and year set forth above.

Signatures on Next Page

Bud Blake, Chair

Gary Edwards, Commissioner

ATTEST:

By: _____
Deputy Prosecuting Attorney

Clerk of the Board

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this _____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of Thurston County, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

By: _____
Title: Pete Kmet, Mayor
Address: 555 Israel Road S.W.
Tumwater, WA 98501

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this ____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Ralph C. Osgood, to me known to be the Mayor of Tumwater, Washington, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

By: _____
 Title: Scott Spence, City Manager
 Address: P.O. Box 3400
 Lacey, Washington 99509

APPROVED AS TO FORM:

David Schneider, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this ____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of Lacey, Washington, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

By: _____
 Title: Steven R. Hall, City Manager
 Address: P.O. Box 1967
 Olympia WA 98507-1967

APPROVED AS TO FORM:

Mark Barber, City Attorney

On this ____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Steven R. Hall, to me known to be the City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

By:

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

WITNESS my hand and official seal the day and year first above written.

Print Name:

NOTARY PUBLIC in and for the State of
Colorado, residing at _____
My commission expires _____

**EXHIBIT A TO
INTERLOCAL AGREEMENT FOR CONSULTING SERVICES**

**PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTING SERVICES**

This Professional Services Agreement ("Agreement") is effective this ___ day of March, 2018. The parties ("Parties") to this Agreement are Thurston County, Washington ("Thurston County"), the City of Lacey, Washington ("Lacey"), the City of Tumwater, Washington ("Tumwater"), and the City of Olympia, Washington ("Olympia") (collectively referred to as the "Local Governments"), and Kissinger and Fellman, P.C., a Colorado Professional Corporation ("Contractor").

A. The Local Governments seek the temporary professional services of a skilled independent contractor capable of working without direct supervision, in the capacity of consulting services relating to cable franchising and related telecommunications matters; and

B. The Contractor has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree as follows:

1. Services.

Contractor shall provide consulting services relating to cable franchising and telecommunications matters as described in the Scope of Work attached as Exhibit A-1 and incorporated herein by reference ("Services"), in a manner consistent with the accepted practices for other similar services, performed to the Local Governments' satisfaction, within the time period prescribed by the Local Governments.

2. Term.

The term of this Agreement shall commence upon the effective date of this Agreement and shall continue until the completion of the Services, but in any event no later than December 31, 2019 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the Local Governments and the Contractor.

3. Termination.

Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause, by the Local Governments.

4. Compensation.

4.1 Total Compensation. In consideration of the Contractor performing the Services, the Local Governments agree to pay the Contractor an amount not to exceed One hundred seven thousand and three hundred seventy Dollars (\$107,370) pursuant to the Scope of Work, attached hereto as Exhibit A-1, and calculated on the basis of the following hourly labor charge rate schedule for Contractor:

Kenneth Fellman	\$290.00 Per Hour
Brandon Dittman	\$175.00 Per Hour
Subconsultants at fixed fees as set forth in Exhibit A-1	

4.2 Method of Payment. Payment by the Local Governments for the Services will only be made after the Services have been performed, a voucher or invoice is submitted in the form specified by the Local Governments, which invoice shall specifically describe the Services performed, the name of Contractor's personnel performing such Services, the hourly labor charge rate for such personnel, and the same is approved by the appropriate Local Governments representative. Payment shall be made on a monthly basis, thirty (30) days after receipt of such voucher or invoice.

4.3 Contractor Responsible for Taxes. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. Compliance with Laws.

Contractor shall comply with and perform the Services in accordance with all applicable federal, state, and Local Governments laws including, without limitation, all City and County codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

6. Warranty.

The Contractor warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the Local Governments by obtaining a business registration, if required by local law.

7. Independent Contractor/Conflict of Interest.

The Contractor's Services shall be furnished by the Contractor as an independent contractor and that the Local Governments shall be neither liable nor obligated to pay Contractor sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the

Local Governments, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Contractor may or will be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services for the Local Governments.

8. Indemnification and Hold Harmless.

8.1 Contractor. The Contractor agrees to indemnify, defend and hold the Local Governments, their elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, damages, losses, actions and liabilities (including without limitation costs and all attorneys' fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the acts, errors or omissions of the Contractor, its partners, shareholders, agents, employees, or by the Contractor's breach of this Agreement. Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs, and the indemnification and agreement to defend and hold harmless contained herein expressly includes any and all claims by employees, subcontractors, and assignees of Contractor or for which Contractor would otherwise have immunity under the Worker's Compensation Act or any similar law in the absence of Contractor's waiver of such immunity herein. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the Parties.

8.2 Local Governments. To the extent permitted by law, the Local Governments agree to indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, damages, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the Local Governments, their employees or agents. Nothing herein shall be construed as a waiver of any governmental immunity by the Local Governments or its employees as provided by statute or court decisions.

8.3 Survival. The provisions of this Section shall survive the completion, expiration or termination of this Agreement.

9. Nondiscrimination.

In all Contractor services, programs or activities, and all Contractor hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by Contractor or by Contractor's employees, agents, subcontractors or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, ethnicity, religion, national origin, marital status, veteran or military status, sexual orientation or the presence of any disability. Contractor shall comply with Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and any other applicable federal, state or local law or regulation regarding non-discrimination.

10. Confidentiality.

The Contractor, its employees, agents, and subcontractors and their employees, shall maintain the confidentiality of all information provided by the Local Governments or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the Local Governments or an order entered by a court of competent jurisdiction. The Contractor shall promptly give the Local Governments written notice of any judicial proceeding seeking disclosure of such information. Breach of confidentiality by Contractor may be grounds for immediate termination.

11. Insurance.

11.1 Workers' Compensation. Contractor is a Colorado professional corporation. Contractor carries workers' compensation insurance through State Farm Insurance Companies. Contractor is in compliance with all of the workers' compensation laws of the State of Colorado.

11.2 Commercial General Liability Insurance.

- A. Products and completed operations liability is covered under Contractor's professional liability insurance.
- B. Automobile liability is not covered since Contractor does not own any automobiles.
- C. Stop Gap or employers contingent liability is covered under Contractor's workers' compensation insurance.

11.3 Automobile Liability Insurance. Contractor does not own any automobiles, and will not be driving as part of its work hereunder; therefore, automobile liability insurance is not required by this Agreement.

11.4 Professional Liability Insurance. Professional liability insurance with limits of

liability not less than \$1,000,000 per claim and \$1,000,000 policy aggregate limits, for damages sustained by reason of or in the course of operation under this Agreement, whether occurring by reason of acts, errors or omissions of the Contractor. The Contractor agrees that the coverages required herein will not be terminated or materially amended during the Term of this Agreement, except after forty-five (45) days prior written notice to the Local Governments. Such written notice may be provided by Contractor or its insurance broker. Contractor's failure to maintain this policy shall be grounds for the Local Governments' immediate termination of this Agreement. Contractor's insurance policies must contain provisions that permit Contractor to purchase tail (extended reporting period) coverage if such coverage is canceled or not renewed for any reason. Contractor shall at all times maintain its professional liability insurance policy so that required coverages will be in effect at all times during the term of this Agreement and for a minimum period of three (3) years thereafter.

11.5 Certificates of Insurance. Contractor shall provide certificates of insurance evidencing coverage required herein and, at Local Governments' request, furnish the Local Governments with copies of all insurance policies and with evidence of payment of premiums or fees of such policies.

11.6. Insurance Limits. The insurance limits stated above are not intended to be an indication of exposure nor are they limitations on indemnification.

11.7 Survival. The provisions of this Section shall survive the completion, expiration or termination of this Agreement.

12. Ownership of Materials/Work Produced.

All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media or material which may be produced or modified by Contractor while performing the Services shall belong to the Local Governments. At the termination or cancellation of this Agreement, all originals and copies of any such work product remaining in the possession of Contractor shall be delivered to the appropriate representative of the Local Governments.

13. Inspection of Books and Records and Retention.

The Local Governments or their authorized representatives may, at reasonable times, inspect and audit the books and records of the Contractor relating to the performance of this Agreement. This includes work of Contractor, any subcontractor or any other person or entity that performed connected or related work under this Agreement. Such inspection and audit shall occur in Thurston County, Washington, or other reasonable locations that the Local Governments select. The Contractor shall supply or permit the Local Governments to copy such books and records. The Contractor shall ensure that inspection, audit and copying rights of the Local Governments is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform work under this Agreement. The Contractor shall keep all

books and records required by this Agreement for six years after termination or expiration of this Agreement. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

14. Non-Appropriation of Funds.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the Local Governments will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the Local Governments in the event this provision applies.

15. General Provisions.

15.1 Entire Agreement. This Agreement including Exhibit A-1 contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

15.2 Modification. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

15.3 Severability. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the Parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement is in direct conflict with any statutory provision of the state of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

15.4 Assignment. Neither the Contractor nor the Local Governments shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

A. If the Contractor desires to assign this Agreement or subcontract any of its work hereunder, the Contractor shall submit a written request to the Local Governments for approval not less than fifteen (15) days prior to the commencement date of any proposed assignment or subcontract.

B. Any work or services assigned or subcontracted for hereunder shall be subject to each provision of this Agreement.

C. Any technical/professional service subcontract not listed in this Agreement, which is to be charged to the Agreement, must have prior written approval by the Local Governments.

D. The Local Governments reserve the right to inspect any assignment or subcontract document.

15.5 Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

15.6 Attorney Fees and Venue. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Thurston County, Washington.

15.7 No Waiver. The Parties agree that the excuse or forgiveness of performance or waiver of any provision(s) of this Agreement does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving Party to enforce any of the provisions of this Agreement at a later time.

15.8 Governing Law. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the state of Washington.

15.9 Authority. Each individual executing this Agreement on behalf of the Local Governments and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Contractor or the Local Governments.

15.10 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, registered or certified mail, return receipt requested, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing or immediately if personally served.

15.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

15.12 Performance. Time is of the essence in the performance of this Agreement. Adherence to completion dates set forth in Exhibit A-1 is essential to the Contractor's performance of this Agreement.

15.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the Local Governments at law, in equity or by statute.

15.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

15.15 Equal Opportunity to Draft. The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement and the determination of the Scope of Work described in Exhibit A-1. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

DATED the day and year set forth above.

Signatures on Next Page

Professional Services Agreement for Consulting Services
Page 9 of 13

By: _____
 Title: Scott Spence, City Manager
 Address: P.O. Box 3400
 Lacey, Washington 99509

ATTEST:

APPROVED AS TO FORM:

Carol Litten, City Clerk

David Schneider, City Attorney

STATE OF WASHINGTON)) ss.
COUNTY OF THURSTON)

On this _____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of Lacey, Washington, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

CITY OF OLYMPIA, WASHINGTON

By: _____
 Title: Steven R. Hall, City Manager
 Address: P.O. Box 1967
 Olympia WA 98507-1967

ATTEST:

APPROVED AS TO FORM:

Debbie Sullivan, City Clerk

Mark Barber, City Attorney

STATE OF WASHINGTON) ss.
COUNTY OF THURSTON)

On this ____ day of _____ 2018, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Steven R. Hall, to me known to be the City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature _____
 Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My commission expires _____

KISSINGER AND FELLMAN, P.C.

By: _____
Kenneth S. Fellman, President
3773 Cherry Creek N. Drive, Suite 900
Denver, CO 80209
(303) 320-6100

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

On the _____ day of _____ 2018, before me, a Notary Public in and for the State of Colorado, duly commissioned and sworn, personally appeared before me Kenneth S. Fellman, to me known to be the President of KISSINGER AND FELLMAN, P.C., a Colorado Professional Corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of
Colorado, residing at _____
My commission expires _____

EXHIBIT A - 1
TO PROFESSIONAL SERVICES AGREEMENT FOR
CONSULTING SERVICES

THURSTON COUNTY, CITIES OF LACEY, OLYMPIA,
AND TUMWATER
CABLE FRANCHISE RENEWAL PROJECT
SCOPE OF WORK AND BUDGET

Work Responsibilities

The services provided for this project will be managed by Ken Fellman of Kissinger & Fellman. He will be assisted by Brandon Dittman. Both Ken and Brandon will be involved in drafting, meetings, negotiations and presentations. Financial review and technical system review aspects will be contracted by Kissinger & Fellman to other firms that we have worked with in the past. We are recommending Front Range Consulting, Inc. for the financial work (they did the last financial review for us), and CBG Consulting, Inc. for the technical cable system review work (the firm that did the work for us the last time no longer provides these services).

Work Plan/Timeline/Budget

In many respects, the time it takes to negotiate these new franchises will depend in large part upon whether we receive reasonable cooperation from Comcast. The outline below is based upon a start date in April. Depending upon when we actually begin, the time frame will be adjusted one way or the other. Based upon our preliminary discussions with the County, we suggest the following work plan schedule and budget:

Phase I –Analysis of Existing Local Regulatory Framework, and Compliance Evaluation

(a) *April–May, 2018* – Review ordinances (cable, rights of way, telecom, as appropriate), customer service standards, franchise agreements and other relevant information from each Jurisdiction.

Ken Fellman 2 – 4 hours	\$580 – 1,160
Brandon Dittman 2 – 4 hours	\$350 – \$700

(b) *April–June, 2018*– Conduct financial review of Comcast’s obligations to each Jurisdiction for 2015 through 2017 (with possibility to add additional years if initial review warrants); conduct technical review of cable systems in each jurisdiction to determine compliance with FCC standards and safety codes.

Financial/franchise fee review. Front Range Consulting, Inc. (“FRC”) will provide Kissinger & Fellman financial consulting related to a review of the current gross revenue language in the Franchise Agreement and the calculations employed by Comcast to determine the required franchise fee payments to each jurisdiction. Unlike the franchise

fee review completed in 2007, the vast majority of subscribers are now purchasing a bundled package containing video and non-video services. As only the video portion of the bundled package can be assessed a franchise fee, a franchise fee review needs to investigate the methodology used by Comcast to apportion bundled offerings between video and non-video services. In many cases, each franchise area can contain a hundred or so different bundled package offerings that need to be reviewed to ensure that the video allocation is just and reasonable under the Franchise Agreements and generally accepted industry practices. In addition to the review of the bundled packages, FRC will review the methodology used by Comcast to allocate and assign non-subscriber revenues to each jurisdiction's franchise area for revenues such as advertising sales and home shopping commissions. FRC understands that the review period anticipated will be 2015 through 2017. FRC proposes to separate the review into two parts. The first part will be an initial review of all billing records and internal analyses prepared by Comcast supporting the gross revenue calculations for the review period including a detailed review of the bundled package offerings for each of the jurisdictions. This review will also include annexation activities impacting each jurisdiction. FRC will include in this part of the review, a current listing of all serviceable addresses assigned to each of the jurisdiction's franchise areas. FRC will work with the jurisdiction's individual GIS departments to review any differences between what Comcast uses and the jurisdiction's official records.

A potential, but not initially contracted part of the financial review services will be additional investigations and/or settlement discussions with Comcast, as directed and authorized by Kissinger & Fellman, after written approval of the jurisdictions. Typically, under this two-tiered approach, there are very limited additional investigations necessary based on the initial results and only assistance in determining a settlement of the issues identified in the initial results. As FRC did previously, FRC will prepare one Initial Report addressing each of the jurisdiction's reviews. FRC anticipates that Comcast will require FRC to sign a confidentiality agreement for FRC to gain access to internal accounting records. The confidentiality agreements signed by FRC in the past have included a provision that requires Comcast to review the draft of the Initial Report to include redactions to the draft for numerical data that Comcast asserts is confidential. FRC does not allow Comcast to edit or change any of the conclusions or narrative descriptions but only to suggest numerical redactions.

Professional Fees for Financial Review. FRC proposes a fixed fee to the first part of the review of each of the jurisdictions' franchise fee payments for the review period of \$35,000 in total. This is a discount because of a combined report for all jurisdictions and the number of jurisdictions involved. This fixed fee for this part of the financial review will be billed to Kissinger & Fellman at one-half of the fixed fee when authorized to proceed and the balance upon delivery of the draft final report. If one or more of the jurisdictions requests the additional financial services as described in the potential second part of the financial project, such work will be charged monthly, if authorized by Kissinger & Fellman, at an hourly rate of \$175 per hour, and again, only after written authorization of one or more

of the jurisdictions. Only those jurisdictions that authorize such additional work shall be responsible for the payment for the additional work.

Technical/Cable System Evaluation. We are attaching and incorporating into this Scope of Work the proposal we received from CBG Communications, Inc. It provides detail on the work proposed, the basis for it, and the background on the principals that will be involved. The cost of this proposed work is a fixed fee of \$36,000.

(c) *June 2018* – Discuss results of compliance review, status of federal actions and impact on local franchising authority with Jurisdictions. Decide on whether issues identified in financial and technical evaluation need to be addressed prior to or in conjunction with franchise negotiations. Conduct joint public meeting with representatives from all jurisdictions to address results of compliance review and consider input from the general public on the provision of cable services and the future cable-related needs of the communities.

Ken Fellman	10 – 14 hours	\$2,900–4,060
Brandon Dittman	5 – 8 hours	\$875 – 1,400

Phase II -- Draft Franchise Agreement/ Franchise Negotiations and Adoption

(a) *May – June, 2018* – Draft franchise agreement and present to Jurisdictions for review and comment. Obtain feedback and finalize draft.

The fees for drafting the franchise involve Kissinger & Fellman working with Staff on its form and content, coordinating input from the other consultants and finalizing the document.

Ken Fellman	15 – 20 hours	\$4,350 – 5,800
Brandon Dittman	15 – 20 hours	\$2,625 – 3,500

(b) *June, 2018 – December, 2018* – Negotiate franchise renewal agreement and follow through adoption by elected bodies in each Jurisdiction.

Franchise Negotiation and Adoption. Negotiate franchise renewal agreement and follow through adoption by elected bodies in each Jurisdiction.

Ken Fellman	25 – 50 hours	\$7,250 – 14,500
Brandon Dittman	15 – 30 hours	\$2,625 – 5,250

Budget Totals:

Legal	\$21,555-36,370
Financial	\$35,000
Technical	\$36,000

TOTAL:	\$92,555 – 107,370
--------	--------------------



communications, inc.

Philadelphia Office: 73 Chestnut Road, Suite 301, Paoli, PA 19301 P/ (610) **889-7470** F/ (610) 889-7475

St. Paul Office: 1597 Race Street, St. Paul, MN 55102 P/ (651) **340-5300** F/ (651) 340-5820

www.cbgcommunications.com

Proposal to Perform a Technical Review/Evaluation of the Comcast System Serving Thurston County, WA.

Submitted by:

**CBG Communications, Inc.
1597 Race Street
St. Paul, MN 55102
(651) 340-5300**

Dick Nielsen, Senior Engineer
Thomas Robinson, President

INTRODUCTION

CBG Communications, Inc (CBG) appreciates the opportunity to provide this Proposal to perform a Technical Review and Audit of the cable television system serving Thurston

County, Washington (“County”) and its incorporated municipalities Olympia, Tumwater, Lacey and Yelm (“Municipalities”). CBG has a national reputation in local government cable television technical reviews and audits, needs assessments and regulatory consulting.

CBG has explained below a few of the many services that we provide that we believe will meet the County’s and Municipalities’ needs and goals as well as other services that provide us with additional expertise and experience that will be beneficial to the project. After performing the tasks described herein, CBG will issue a report spelling out findings and recommendations which can be used both for determining compliance with the existing franchise and determining beneficial provisions to be included in any renewed franchise.

Given our breadth of experience and our successful work in the region, including work in Seattle, King County, Pierce County, Vancouver and Clark County, multiple Washington municipalities and for the State of Washington, and across the country, we believe CBG is eminently qualified to provide the Technical Review and Audit consulting services desired by the County and Municipalities.

TECHNICAL REVIEW APPROACH

Overall Methodology

CBG understands that the County and Municipalities are interested in the performance of a technical review and audit of the Comcast cable TV system serving the County. To this end, CBG is providing the following scope of services for the County’s and Municipalities’ review. CBG will work with the County and Municipalities to define the project in a manner that best meets your needs.

Specifically, a Technical Review and Audit of the Comcast system will be performed by Mr. Nielsen, with support from Mr. Robinson. The Technical Evaluation will encompass a paper review, complaints review, discussions with County and Municipal staff, electronic performance review, and physical infrastructure review, thus giving a comprehensive assessment of the system’s capabilities, physical condition and technical performance.

Specifically, the following Tasks will be performed by CBG:

- 1. Request for Certain Operational Information** - CBG will begin by reviewing and evaluating the system to determine its strengths and weaknesses by developing a Request for Information (RFI) seeking a written response from Comcast. We will then engage in discussions with their engineering and technical staffs, in order to gain an understanding of, for example, the system’s current design, age, condition, system capacity, functionality, cascade length, homes per node, and headend/hub(s). As part of

the RFI effort, CBG will request and review as-built and other system maps from Comcast to determine whether the systems have been built within specifications.

This RFI will also ask for outage logs, technical complaint logs, maintenance and repair records and Cumulative Leakage Index (CLI) documentation as well as documents describing various other facets of the system. CBG will then meet with Comcast's engineering and technical staffs, in person and/or by conference call, as needed to clarify its initial findings.

CBG will review the documents provided by Comcast and create a summary of these findings in the Final Report.

2. System Maintenance/Reliability – CBG will review both service call logs as well as outage logs for the system to determine the level of problems within the system. CBG will then use this background information during our site visits to further understand technical issues that may be affecting subscribers. This will also include feedback that we may have gleaned from the meetings with County and Municipal staff. An example of this would be specific channels that are frequently mentioned as being problematic. It will also include review of the technical quality complaints being received by the County and Municipalities.

3. Inspection of Physical Plant - CBG will utilize the information gleaned from the above tasks and work with the County to plan and refine the overall Technical Review and Audit process including the sampling methodology to determine safety code compliance of the cable plant such as fiber optic and coaxial transmission systems, subscriber installations or drops and the central control equipment in the headend and hub(s). The Inspection of these systems will encompass a representative system drive-out and review of specific areas of concern to the County and Municipalities to determine the overall condition of the system from a safety, functionality and aesthetic standpoint. CBG will determine the level of compliance with the Franchise, other pertinent local codes and regulations, the National Electrical Code (NEC) and the National Electrical Safety Code (NESC) as well as good engineering practices. **It will be very important to ensure that any problems found with the system is corrected prior to the Franchise being renewed and that projected problems are dealt with based upon an agreed upon maintenance and remediation program.**

Based on discussions with the County and Municipalities, CBG will perform a ride-out independently, or with County and Municipal staff, to look at physical plant characteristics. This inspection will include the cable distribution plant comprised of the fiber optic, trunk and feeder systems, coaxial cable drops to the subscribers' residences and the headend and hubs that serve the County. The outside plant inspection will include aerial plant inspection for issues such as clearance of the cable TV plant from the ground and other utilities, and attachments at poles and buildings including the drops to homes and businesses. Both underground and aerial plants will be inspected for proper grounding and bonding of the cable TV distribution systems and subscriber's drops as well as other potential problems or violations, including right-of-way restoration issues.

CBG performs the system drive out using a random sample chosen using a statistically valid methodology. Specifically, CBG will work with the County to develop a list or spreadsheet of all addresses in the County and Municipalities and then randomly select 200 addresses based on this list. For example, if the address list has 100,000 addresses, we will inspect the plant and drop, where accessible, at every 500th address on the list for a total of 200 locations. This will allow CBG to extrapolate, in a statistically valid manner, the level of violations, issues and concerns throughout the County (with a margin of error of less than $\pm 6.9\%$ with a 95% confidence level).

CBG will then report both the actual numbers of violations found and the statistically valid projection, such that not only the observed violations but also the other violations projected throughout the County can be properly remedied.

4. Facility Reviews -The headend and a sampling of pertinent hub(s) will be inspected for proper grounding and bonding, fire suppression system(s), back-up powering, status monitoring equipment and Emergency Alert System (EAS) implementation as well as the overall age and condition of equipment being utilized throughout the headend and hub(s).

CBG will develop a list of violations of codes and cite the code that applies to the infraction. This will be incorporated into the final report with a discussion in the Report detailing the overall level of compliance with pertinent codes.

5. Testing of Cable Plant and FCC Compliance Review - CBG will work with Comcast to determine the level of compliance with §47CFR76.640. This is a set of standards that is in place whereby cable TV operators must comply with specifications for **digitally** transmitted channels. The Standard does not provide for a frequency of testing or documentation process, as was required of the analog based specifications in previously performed Proof of Performance testing (on analog based channels), but it does require the system to meet the Standards. We will work with Comcast to include this testing in the “over the shoulder” testing described below.

This will provide CBG with a baseline understanding of whether the system is performing within its designed parameters and what may be causing signal quality complaints.

We will then perform on-site “over-the-shoulder” objective testing in the field at a minimum of five test locations within the system that are representative of the system’s technical performance in the Municipalities and the unincorporated County, and also targets specific areas that may be identified based on a high level of signal quality complaints. Over-the-shoulder testing means we oversee testing being performed by the operator’s staff while utilizing their test equipment. This allows us to evaluate whether proper test methodologies and equipment are being utilized by the provider and then alleviates potential disagreements concerning the results found during testing, once the methodologies and equipment are certified as appropriate and accurate. In addition to

this testing, CBG can perform subjective viewing of subscriber system channels for quality characteristics.

6. Written Report - CBG will develop a detailed report that indicates all findings from the above evaluation processes and that thoroughly assess the current condition of each system. Comparisons would be made between our onsite findings and the information initially received from Comcast. We would then make appropriate recommendations, to bring the system into technical compliance with pertinent rules and regulations, and also develop recommendations regarding future system requirements. CBG will then work with the County and Municipalities to take the technical review findings and turn them into realistic requirements, objectives and strategies with respect to the franchise renewal process with each provider.

PROJECT TIMELINE

We are prepared to start this project with RFI development, transmittal and information receipt and review in February/March and then complete the inspection audit, testing and reporting by the end of May, 2018. This schedule depends on the cooperation of the provider. It is critical that we work with the County and Municipalities to develop a work plan upfront that meets franchise renewal needs.

PROJECT COST

CBG will complete the Cable System Technical Review and Audit for the cost as shown below. The Scope and associated cost can be refined as needed to meet the County's and Municipalities' budgetary requirements.

SYSTEM TECHNICAL REVIEW/AUDIT PROJECT (TASK ITEMS 1 THROUGH 6)	
Scope Tasks	Cost
Scope Items 1 through 6	\$32,000
Project Expenses	\$4,200
Project Total	\$36,000

Personnel Hourly Professional Services Rates

The hourly rates for the personnel that will be involved in the Technical Review are as follows:

Tom Robinson (TR), Principal Consultant - \$175.00
Dick Nielsen (DN), Senior Engineer - \$175.00
Krystene Rivers (KR), Research Associate - \$50.00

CONCLUSION

CBG appreciates the opportunity to provide Thurston County, WA and the Cities of Olympia, Tumwater, Lacey and Yelm with this Proposal for Technical Review and Audit Consulting Services. We have the requisite expertise and regional and national experience to competently, efficiently and expeditiously provide the services and results the County and Municipalities require related to this Project.

SUPPLEMENTAL INFORMATION

RELATED EXPERTISE AND EXPERIENCE

CBG has the requisite experience in a wide range of other cable television, broadband, telecommunications, technical and technology subject areas to effectively assist the County and Municipalities in its cable television and telecommunications-related processes. Specific expertise includes:

Cable Television

CBG provides a wide range of services regarding cable television-related matters beyond system technical audits including, but not limited to, those listed below. CBG has successfully provided and continues to provide, these services to many local governments across the country:

Institutional Network (I-Net) Development, Evaluation and Valuation - Ascertainment of I-Net needs, organizational video, voice and data communications applications, potential system architectures, audit, evaluation and valuation of current I-Net, etc.

Community Needs Assessment - Surveys of subscribers and non-subscribers, review of organizational needs, facilitation of focus groups, public forums and workshops, development of web-based surveys and forums, etc.

PEG (Public, Educational, and Governmental) Access Analysis - Ascertainment of PEG channel needs, including facilities and equipment, transport formats and technologies, subscriber network channel capacity, training and facilitation services, access group organization, content development, etc.

Franchise-Related Cable Regulatory Processes - Assistance with past performance and franchise compliance reviews, franchise administration and management, franchise development and both the formal and informal renewal processes, competitive cable system franchising, evaluation of cable operator proposals and qualifications, assistance in franchise and ordinance drafting, development of Request for Renewal Proposals (RFRPs), assistance in franchise negotiations, etc.

CBG Principals' Biographies

The skills and qualifications for the CBG Principals are set forth below.

Richard R. Nielsen

Richard R. (Dick) Nielsen is CBG Communications, Inc.'s Senior Engineer and is based out of the Saint Paul, Minnesota office. Mr. Nielsen would perform much of the on-site portion of the project including field work, initial and follow-up work with cable company engineers as well as report writing, code enforcement recommendations, and statistical projections.

Mr. Nielsen works as lead technical staff for CBG. His work includes cable, broadband and telecommunications system inspection design, application, development and review, cable television system performance audits, underground and aerial construction planning review and analysis, wireless and wireline data communication system and equipment planning, institutional network design, application development and performance review, as well as review and analysis of other technical issues.

Mr. Nielsen has performed system infrastructure inspections and performance audits in cities and counties across the country. Mr. Nielsen's findings are used to develop remediation plans by cable operators to bring systems more in line with pertinent safety Codes. A notable result is in Philadelphia where his inspection of 250 randomly selected addresses found 142 violations which projected to more than 250,000 violations Citywide. As a result of the findings in Philadelphia, Comcast agreed to a multi-million dollar remediation project as required by the City.

Prior to Mr. Nielsen joining CBG, he spent 19 years with AT&T Broadband and its predecessor companies. The last four were spent as the Institutional Network Manager. While managing, he was involved in a wide range of activities, including maintenance of institutional networks ("I-Net") representing over 20 franchise areas and over 1000 miles of coaxial, HFC and fiber optic plant, supervision of construction activities, designing new and upgrading existing I-Nets, budgeting for new and updated I-Nets, and activation of fiber optic nodes, power supplies, amplifiers, pilot generators and status monitoring systems. Mr. Nielsen regularly represented AT&T Broadband at various meetings relating to I-Net issues. He also worked closely with consultants in evaluating and designing upgrades to existing I-Nets.

For the 8 years prior to being I-Net Manager, Mr. Nielsen was the Technical Supervisor. He supervised 35 Maintenance Technicians and Service Technicians, implemented a plan to bring service levels up to NCTA and FCC standards, and was in charge of reporting all engineering and technical data for national reporting FCC testing and reporting and public files for CLI and Proof of Performance. Additionally, Mr. Nielsen spent 4 years as a Headend Technician and was involved in designing, wiring and maintaining headends,

hubs and antennas. He was on call 24 hours a day for problems related to headends. Mr. Nielsen's first 3 years were spent as a Maintenance Technician. He was responsible for maintaining HSN and I-Net plants, field testing of FCC CLI and Proof of Performance requirements as well as working on call (24/7) for outages and problems.

Mr. Nielsen began his career as a technician and installer for Best Vision SMATV and Muller Prybell. Formal education was received at Dakota County Technical College in its Cable Television Degree Program.

Thomas G. Robinson

Thomas G. Robinson is President and Owner of CBG Communications, Inc. and is based in both the New York metropolitan area and Philadelphia, Pennsylvania offices. Mr. Robinson will oversee the project while bringing his technical expertise and operational analysis experience to the project related to evaluating the findings and making recommendations concerning any corrections and modifications needed to the existing system, and any future evolution of the system needed to provide state of the art cable communications going forward.

Mr. Robinson has worked with local governments all across the country on a variety of cable, broadband, telecommunications and ROW management projects, including: technical review; infrastructure issues; franchise monitoring, management, administration and compliance; needs assessment; wireless networking; broadband and telecommunications planning and policy development; institutional networks; Public, Educational and Governmental (PEG) access issues; competitive communications system reviews; cable television franchise renewals; ROW management regulations and ordinances, regulatory agreements and other matters. He is a frequent speaker at local government, telecommunications and technical conferences. Mr. Robinson has written numerous columns for *Communications Engineering & Design (CED)* magazine.

Prior to joining CBG, Mr. Robinson was, for seven years, Director of Technology Development for River Oaks Communications Corporation, where he worked with numerous local government clients on telecommunications and cable television projects. Mr. Robinson also served for 10 years as Chief of the Cable Regulatory Division of the Department of Consumer Affairs for Fairfax County, Virginia. While there, he was involved in a host of activities related to oversight of one of the nation's largest cable systems, including development, implementation and oversight of a comprehensive cable television system inspection and audit program. Prior to his work in Fairfax, Mr. Robinson was with Magnavox CATV Systems, Inc. (now part of Arris), where he worked first as a system designer and then in product management. While at Magnavox, he helped develop and market new amplification systems and products that paved the way toward today's high capacity cable systems.

Mr. Robinson began his career as an announcer, program director and operations engineer in radio and television at several radio stations in the Baltimore/Washington

area and at the public broadcasting television and radio stations (WCNY-TV/FM) in Syracuse, New York.

He holds an M.S. in Telecommunications/Film from Syracuse University's S.I. Newhouse School of Public Communications and a B.A. in Mass Communications from Towson University where he graduated *Summa Cum Laude*.

REFERENCES

Kellie Lute, Manager

Clackamas County Cable Communications
2051 Kaen Road
Oregon City, Oregon 97045
Phone: (503) 742-5902
E-mail: debbiest@co.clackamas.or.us

Steven E. Robertson, Esq., Deputy CIO/Chief of Staff

Office of Innovation & Technology
City of Philadelphia
One Parkway Building
1515 Arch Street
Philadelphia, Pa 19102-1595
Phone: (215) 686-8268
Email: steven.robertson@phila.gov

Tim Finnerty, Executive Director

Ramsey/Washington Suburban Cable Commission
2460 East County Road F
White Bear Lake, MN 55110
Phone: (651) 779-7144
E-mail: timfinnerty@rwcable.com

** Additional references can be provided upon request.*

**Interlocal Agreement for Consulting Services
Exhibit B**

Comcast Franchise Renewal
March 12, 2018

Percentage Distribution of Cost Estimates based on Number Comcast Subscribers

As of 1/23/18 per Comcast

Entity	Subscribers	Percentage Share
Thurston County	28,300	46.17%
Lacey, City of	11,700	19.09%
Olympia, City of	14,800	24.14%
Tumwater, City of	6,500	10.60%
Totals	62,800	100.00%

Breakout of Contract Components:

Legal Services	\$ 36,370
Technical Services	\$36,000
Financial Services	\$35,000
Estimate Total	\$107,370