

CLARK COUNTY
STAFF REPORT

DEPARTMENT: City/County Cable Television Office

DATE: December 15, 2015

REQUEST: AWARD OF GRANT FUNDS FROM THE PEG CAPITAL SUPPORT
FUND TO TV ETC AND CVTV

CHECK ONE: Consent Routine

BACKGROUND: The current franchise agreements between Clark County, the City of Vancouver, and Comcast Corporation provide for a capital contribution in the amount of \$1/month per subscriber for support of Public, Education, and Government (PEG) access and monthly transport costs for public I-NET users. This contribution may only be awarded to designated access providers and public I-NET users.

The Vancouver Educational Telecommunications Consortium (TV ETC), the Designated Access Provider for Education and Clark/Vancouver Television ("CVTV") the Designated Access Provider for Government each submitted grant applications for PEG capital support funds under the criteria and requirements established by the City/County Telecommunications Commission ("Commission"). In total, ten proposals were received totaling \$318,073. Estimated funds available for distribution in 2015 are approximately \$530,000. The grant applications were reviewed by outside technical experts and the PEG Committee, a subcommittee of the Commission.

The Telecommunications Commission through Resolution 2015-06 (attached) recommends that the Board of Clark County Councilors award \$259,824 to TV ETC and \$47,994 to CVTV for purchase of certain capital expenditures. The funds, totaling \$307,818, will be used to purchase equipment for the Battle Ground, Evergreen and Vancouver School Districts along with Educational Service District 112 and Clark Vancouver Television. Contracts for the funds will be issued in January 2016. A list of grants and equipment is included in the Telecommunications Commission resolution.

ACTION REQUESTED: On December 15, 2015, adopt a resolution under the terms of the interlocal agreement between Clark County and the City of Vancouver, awarding PEG Capital Support Funds of \$259,824 to TV ETC and \$47,994 to CVTV. (Note: Under the terms of the Interlocal agreement between the County and the City, both the Board and Council must approve the grants for funds to be awarded.)

POLICY/BUDGET IMPLICATIONS: Monies have been separately appropriated for funding these capital projects.



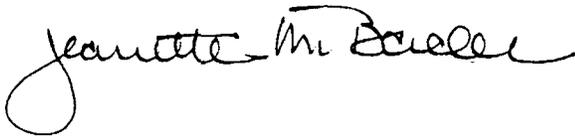
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COMMUNITY OUTREACH: The City/County Telecommunications Commission held a public hearing, on December 2, 2015 regarding the grant requests.

Attachments: Board Resolution plus attachments

DISTRIBUTION:

Christine Cook, Prosecuting Attorney's Office



Jeanette Bader
Program & Policy Development Manager



Approved
**CLARK COUNTY BOARD OF
COUNCILORS**

12/15/15

SR 231-15

RESOLUTION NO. 2015- 12-15

A RESOLUTION relating to cable television, granting a nonexclusive and revocable franchise to Qwest Broadband Services, Inc. d/b/a CenturyLink, a corporation organized under the laws of the State of Delaware (“QBSI”), pursuant to state and federal law, and CCC 36.04A.100, to construct, operate, maintain, reconstruct, and repair a Cable System for the purpose of providing cable service, subject to the terms and conditions set forth in the Franchise Agreement.

1 WHEREAS, Clark County (“County”) desires to promote competition in the
2 delivery of cable services available to its residents; and

3 WHEREAS, Qwest Broadband Services, Inc. d/b/a CenturyLink, a Delaware
4 corporations (“QBSI”), seeks to provide competitive cable services to the residents of
5 Clark County; and

6 WHEREAS, on March 10, 2015, QBSI submitted an application and the seven
7 thousand five hundred dollar (\$7,500.00) application fee, as required by Clark County
8 Code (CCC) 36.04A.080(a)(1) and (2), to the County seeking a cable franchise to provide
9 cable services in the County; and

10 WHEREAS, Qwest Corporation (“QC”), an affiliate of QBSI, will be primarily
11 responsible for the construction, installation, and maintenance of the facilities which will
12 be utilized by QBSI to provide cable services; and

13 WHEREAS, Chapter 36.04A CCC, consistent with Article 11, Section 11 of the
14 State Constitution and state law at RCW 35.22.280, RCW 35.22.570 and RCW
15 35.27.280, and with the Cable Communications Policy Act of 1984, the Cable Television
16 Consumer Protection and Competition Act of 1992 and any amendments thereto,
17 including those contained in the Telecommunications Act of 1996 (collectively, the

18 “Cable Acts”), authorizes the Board of County Councilors of Clark County (“Board”) to
19 issue franchises to use the rights-of-way of county streets and highways for the
20 construction and maintenance of cable television lines and other cable television
21 facilities; and

22 WHEREAS, the Board has adopted Chapter 36.04A CCC, which sets forth
23 comprehensive and detailed regulations relating to the granting of cable television
24 franchises and the provision of cable television and related services; and

25 WHEREAS, the Vancouver-Clark Telecommunications Commission
26 (“Commission”) is established by CCC 36.04A.220 to, among other duties, review and
27 make recommendations on all applications for franchises to provide cable television
28 service within the county and the city, and in such connection hold public hearings
29 thereon and to make written reports and recommendations to the Board; and

30 WHEREAS, the Commission established a process for franchise negotiations with
31 QBSI which provided for public education as well as ascertainment of the community’s
32 future cable-related needs and interests; and

33 WHEREAS, telecommunications staff, working with the guidance of the
34 Commission, negotiated a proposed franchise agreement with QBSI with terms that will
35 meet the needs and interests of the community and the competitive equity requirements
36 of existing cable franchise agreements; and

37 WHEREAS, the Commission received the proposed draft franchise agreement on
38 November 4, 2015; and

39 WHEREAS, in a public meeting on November 4, 2015, the Commission
40 unanimously adopted Resolution 2015 - 05, which included Findings and
41 Recommendations regarding a proposed franchise agreement with QBSI; and

42 WHEREAS, Commission Resolution 2015 - 05 concludes that the “proposed
43 franchise agreement with QBSI meets or exceeds the criteria established by federal law;
44 meets or exceeds the requirements established by Chapter 36.04A of the CCC; meets or
45 exceeds the Commission’s identified priorities for a franchise agreement with QBSI; and
46 meets or exceeds the special and unique future cable-related needs of the
47 Vancouver/Clark County community;” and

48 WHEREAS, the Board has considered all the testimony and arguments, both oral
49 and written, and the Commission’s Findings and Recommendations as contained in
50 Commission Resolution 2015 - 05 including study of all the records, and has analyzed all
51 of these on the basis of the standards and criteria of federal and state law, and local
52 ordinance, and the Board has also relied on its own understanding and judgment as to the
53 future cable television-related needs of the county; now, therefore,

54 BE IT ORDERED AND RESOLVED by the Board of County Councilors of
55 Clark County, State of Washington, as follows:

56 **Section 1. Findings.** Based upon the detailed and unanimous Findings and
57 Conclusions contained in the report from the Commission dated November 4, 2015,
58 contained in Commission Resolution 2015 - 05, which findings and conclusions are
59 hereby adopted and incorporated herein as EXHIBIT A by this reference, and upon the
60 testimony and argument presented to the Board at public hearing on this Franchise
61 Resolution, the Board finds and concludes that the proposed Franchise Agreement with

62 QBSI provides for a cable television system that meets or exceeds the special and unique
63 future cable-related needs of the Clark County community.

64 **Section 2. Franchise Award.** There is hereby granted to QBSI, pursuant to
65 state and federal law, and Chapter 36.04A CCC, the nonexclusive and revocable
66 authorization to make reasonable and lawful use of the streets of the County to construct,
67 operate, maintain, reconstruct, and repair a cable system for the purpose of providing
68 Cable Service and to provide related I-NET for data, as set forth in, and subject to the
69 terms and conditions of, the Franchise Agreement incorporated herein by reference.

70 **Section 3. Franchise area.** The rights and privileges granted herein shall
71 apply within the jurisdictional boundaries of the County where CenturyLink QC provides
72 local exchange service.

73 **Section 4. Incorporation of Franchise Agreement.** The Franchise
74 Agreement agreed to and attached hereto as EXHIBIT B is incorporated herein by this
75 reference as if fully set forth as part of this ordinance. A copy of the Franchise
76 Agreement is and shall be maintained on file in the office of the Clerk to the Board and
77 the City/County Cable Television Office.

78 **Section 5. Cable Television Ordinance.** In addition to other applicable
79 ordinances, laws and regulations, this franchise shall be subject to the terms and
80 provisions of Chapter 36.04A CCC, as existing or amended.

81 **Section 6. Effective Date of Ordinance and Term of Franchise.** Subject to
82 the provisions of Section 7 of this resolution, this resolution and the franchise awarded
83 hereby shall go into effect January 1, 2015. The term of the franchise awarded hereby

84 shall extend from such effective date for five years through and including December 31,
85 2020, unless otherwise terminated or extended as provided by the Franchise Agreement.

86 **Section 7. Acceptance of Franchise.** Pursuant to Chapter 36.04A
87 CCC and the Franchise Agreement, QBSI shall, within 30 (thirty) days of approval by the
88 County of award of this franchise, file with the Commission its written and sworn
89 unconditional acceptance and promise to comply with all terms of the franchise and shall
90 post with the Commission the security required by the Franchise Agreement, or this
91 resolution and the franchise granted hereby shall become null and void and any and all
92 rights of QBSI to own or operate a cable system within the County under the Franchise
93 Agreement shall be terminated.

94

ADOPTED on this 15th day of December, 2015.

Attest:

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON


Clerk of the Board



David Madore, Chair

APPROVED AS TO FORM ONLY:
Anthony F. Golik, Prosecuting Attorney

Jeanne E. Stewart, Councilor

By: 
Christine Cook
Sr. Deputy Prosecuting Attorney

Tom Mielke, Councilor

City/County Telecommunications Commission

RESOLUTION 2015 –06

Regarding Recommendations to Award PEG Capital Support Funds to Designated Access Providers TV ETC and CVTV

Section 1. Findings

- 1.1 Under the terms of the cable television franchise agreements between the City of Vancouver (“City”), Clark County (“County”) and Comcast of Washington V, LLC (“Comcast”) adopted June 2013, funding is available to support Public, Educational and Governmental (“PEG”) Access capital costs and monthly transport costs by public users related to the Institutional Network (“iNET”).
- 1.2 As stated in Section 9.9 “Support for Access Capital Costs” of the franchise, “During the term of this Agreement, Grantee (Comcast) shall provide for a maximum of one dollar (\$1.00) per month, per Residential Subscriber (the “Capital Contribution”) for Public, Educational and Governmental (“PEG”) Access capital.
- 1.3 The City/County Telecommunications Commission (“Commission”) is authorized under Section 5.19.300 of the Vancouver Municipal Code and under Clark County Code 36.12.160 to administer Ordinances and any Franchise granted pursuant to the implementation of Franchise compliance procedures.
- 1.4 The Commission’s authorized duties, pursuant to the codes mentioned in Section 1.3 of this Resolution, include “To have primary responsibility for advising the City and County regarding public, educational and governmental access programming including the development of processes for the selection of designated access providers, and for evaluating their performance, for assigning and designating access channels, for allocating access funds and for making written reports and recommendations to the City Council and Board of County Councilors.”
- 1.5 The Commission is further charged by the ordinances to work with any and all grantees, designated access providers and the public to encourage maximum feasible use of access channels by institutions, groups, and individuals in the community and to promote, in cooperation with cable franchise grantees, designated access providers and others, local programming for the community.
- 1.6 The Commission Chair appointed a subcommittee of the Commission to review applications from Designated Access Providers and present recommendations to the Commission, which if approved by the Commission, are forwarded to the Vancouver City Council and the Board of Clark County Councilors for review and appropriate action.

- 1.7 The Vancouver Educational Telecommunications Consortium (“TV ETC”), the Designated Access Provider for Education and Clark/Vancouver Television (“CVTV”), the Designated Access Provider for Government each submitted applications to the Commission for PEG Capital Support Fund consideration.
- 1.8 Grant applications were reviewed by the PEG Committee in concert with outside experts who reviewed the applications from a technical perspective. The PEG Committee also met with each designated access provider on November 16, 2015.
- 1.9 The Committee presented their recommendations and findings to the Commission in the **Recommendations Regarding the Award of PEG Capital Support Funds** (Exhibit A.) Estimated funds available for distribution in 2015 are approximately \$530,000. The Commission reviewed and approved the recommendations and findings of the PEG Committee as outlined in the report.

NOW, THEREFORE BE IT RESOLVED:

Section 2.

- 2.1 The Commission recommends, barring any substantial issues raised by the City and County governing boards, and upon signing the required PEG Capital Grant agreements, that TV ETC and CVTV be awarded PEG Capital Support Funds as follows:

| Applicant | Total Amount Requested | Total Amount Funded |
|---|-------------------------------|----------------------------|
| TV ETC | \$269,547 | \$259,824 |
| CVTV | \$47,994 | \$47,994 |
| Total PEG Access Capital Grant Funds | \$317,541 | \$307,818 |

The City/County Telecommunications Commission, through this Resolution, adopts the findings and recommendations contained herein and as outlined in Exhibit A: **Recommendations regarding the 2015 Award of PEG Capital Support Funds**

- 2.2 The Commission directs staff to forward this Resolution and finalized copies of the **PEG Committee Recommendations Regarding the 2015 Award of PEG Capital Support Funds** to the Vancouver City Council and the Board of Clark County Councilors, as well as to the applicants.
- 2.3 The Commission recommends that the Vancouver City Council and Board of Clark County Councilors award funds to TV ETC and CVTV as outlined in this Resolution.

Approved (Date): December 2, 2015

A handwritten signature in black ink, appearing to read "Robert Coletti", written over a horizontal line.

Robert Coletti, Chair, City/County Telecommunications Commission