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: X 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.

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

RESOLUTION NO. 2015-_____

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADOPTED on this _____ day of _____, 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
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

Robert J. Coletti

Robert Coletti, Chair, City/County Telecommunications Commission