



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND, WA**

**AB 4362  
October 6, 2008  
Consent Calendar**

**INTERLOCAL AGREEMENT FOR CABLE  
FRANCHISE NEGOTIATION**

**Proposed Council Action:**

Approve entering into interlocal agreement for cable franchise negotiation.

**DEPARTMENT OF**

City Attorney (Katie Knight)

**COUNCIL LIAISON**

n/a

**EXHIBITS**

1. Interlocal Agreement with Consortium for Negotiation of Cable Television Franchising

**APPROVED BY CITY MANAGER**

<b>AMOUNT OF EXPENDITURE</b>	\$ 10,395.46
<b>AMOUNT BUDGETED</b>	\$ 0
<b>APPROPRIATION REQUIRED</b>	\$ 10,395.46

**SUMMARY**

The City of Mercer Island was invited to join a consortium of several cities and Snohomish County in negotiating a new cable franchise with Comcast. The City's current franchise with Comcast is coming to an end within approximately two years. Mercer Island was asked to participate in the consortium along with Snohomish County and the cities of Shoreline, Edmonds, Bothell, Kenmore, Lake Forest Park, Woodinville, Carnation and Woodway.

Snohomish County and ten King and Snohomish County cities recently completed a negotiation with Verizon for cable services using the consortium approach. The participants felt that by using this approach the process was far more affordable with a stronger result. The result was validated nationally by using a nationally recognized consultant, River Oaks, and locally by leveraging the bargaining power of a large number of consumers. Because Comcast and Verizon are competing for the same customers, there is very little "new" money available for cities, placing a premium on efficiency.

That earlier consortium negotiated a franchise template as a group to deal with the majority of the technical issues, and then had simplified individual negotiations for the individual cities on "competitive equity" issues. Those issues are ones on which the scope of the negotiation is limited under FCC rules due to the "deal" the City has with its other franchisee.

Exhibit A to the interlocal agreement (Exhibit 1, Page 14) is an estimate of the pro rata shares based on the municipalities currently invited to join the consortium. The total pro-rata share per party will depend on the number of entities agreeing to join the consortium. Funding for this interlocal agreement will be requested as part of the 2009-2010 budget process.

Given the success of the previous consortium in negotiating a favorable franchise, along with the resulting savings in sharing negotiation costs, the new consortium expects to have similar results.

## RECOMMENDATION

*City Attorney*

MOVE TO: Authorize the City Manager to enter into an interlocal agreement in 2009 that creates a consortium to assist with negotiations for cable franchising

## INTERLOCAL AGREEMENT

### CONSORTIUM FOR NEGOTIATION OF CABLE TELEVISION FRANCHISING

This Agreement is made and entered into by and between the undersigned Parties pursuant to the provisions of the Interlocal Cooperation Act of 1967, RCW Chapter 39.34.

WHEREAS, Snohomish County and some cities of South Snohomish and King County (collectively the "Parties") are or will soon be in the process of negotiating competitive cable franchises with Comcast of California/Colorado/Texas/Washington, Inc. and its affiliates (all hereinafter collectively "Comcast"); and

WHEREAS, while each governmental entity may negotiate on its own behalf, the Parties to this agreement wish to coordinate their efforts in a lawful manner in order: a) to ensure that the public receives the maximum rights and benefits from their respective franchise agreements; b) to better coordinate their negotiations with Comcast; (c) to share the costs of negotiations including hiring a national consultant and attorneys to assure the citizens of each jurisdiction that their franchise is competitive, both locally and nationally; and (d) to create a common template and negotiation strategy through the assistance of a national consultant and attorneys to maximize leverage during the negotiations; and

WHEREAS, the Interlocal Cooperation Act provides a mechanism to both jointly contract with a consultant for common services as well as a mechanism for each Party to utilize the consultant's services, as that Party sees fit, for additional support in negotiation as well as the tailoring of the template to the specific needs of each participating entity;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed that:

1. **Purpose.** This Agreement shall have the following purposes:

1.1 Create a Consortium, entitled the "Cable Franchise Consortium" ("Consortium"), to assist the Parties in joint and individual negotiations with Comcast for cable franchises.

1.2 Provide a vehicle for the Parties to designate a representative to organize the Consortium and lead negotiations, and compensate Snohomish County for the services of a lead negotiator. Peter Camp of the Snohomish County executive office is hereby designated as the lead negotiator.

1.3 Provide a vehicle for the Parties to contract with River Oaks Communications Corporation ("Consultant"), for the development of an initial negotiating template for a cable television franchise for the use of each Party in its individual negotiations with Comcast.

1.4 Engage Consultant to perform the following functions in preparation for negotiations between the Parties and Comcast:

1.4.1 Review existing franchise agreements between the Parties and Comcast.

1.4.2 Review existing Cable/Telecommunications Ordinances within the respective Parties and the impact of these ordinances on Comcast.

1.4.3 Assist the Parties in preparing for negotiations with Comcast including identifying goals and objectives for the negotiations.

1.4.4 Provide information regarding applicable FCC orders and the impact those orders have on video entrants/incumbents such as Verizon or Comcast.

1.4.5 Review cable franchise agreements with cities and counties nationally.

1.4.6 Participate in negotiations between Comcast and the Parties.

1.4.7 Draft and negotiate Customer Service Standards with Comcast on behalf of the Parties.

1.4.8 Attend meetings at the request of the Parties.

1.5 Engage the law firm of Ogden Murphy Wallace, P.L.L.C. (“OMW”) to provide an administrator and assistant negotiator for the Consortium.

1.6 This Agreement shall also serve as a vehicle to contract with the Consultant for additional individualized services to be provided as needed to each individual Party. By so doing, the Parties hope to secure a lower cost for the Consultant’s services through a joint contracting framework as well as minimize associated travel costs and other expenses by coordinating their efforts.

1.7 The Consortium shall also serve as a vehicle for the Parties to share information now and in the future regarding telecommunications and cable issues, including but not limited to issues such as educational and governmental channel usage, access fees and capital fees, negotiation strategies for franchises, the negotiation of cell tower and other telecommunication leases, right-of-way use requirements, and other similar issues. This information sharing is intended to provide a vehicle for sharing information regarding issues of common public interest.

2. **Duration.**

2.1 The Effective Date of this Agreement is the date on which the second Party signs the Agreement and the date this Agreement is posted on the City of Woodinville website, whichever later occurs.

2.2 The Consortium, as an information-sharing group, may remain in effect for an indefinite term for the mutual benefit and cooperation of the Parties for so long as they individually choose to participate.

2.3 The Consortium, as a joint negotiation team, may remain in effect for one (1) year and will terminate at the anniversary of the Effective Date unless otherwise extended by the action of the Parties.

2.4 Any Party may withdraw from this agreement upon the provision of ten (10) days written notice subject to the limitations of Section 3.4.

3. **Organization.** The Consortium may consist of Snohomish County and the cities of Bothell, Carnation, Edmonds, Kenmore, Lake Forest Park, Mercer Island, Shoreline, Woodinville and the Town of Woodway, upon their authorization. The City of Woodinville shall serve as the contracting entity with the Consultant. In addition, other entities authorized to participate in interlocal agreements by statute may join during the term of this Agreement, pursuant to Section 3.3.

3.1 In accordance with RCW 39.34.030 financing of the Consortium and all costs associated with consulting, negotiating and attorney services provided to the Consortium shall be determined based on a Party's population. The cost of consulting, negotiating and attorney services incurred in the preparation of a template for a Comcast franchise and joint negotiation support shall be shared by the Parties on a pro-rata basis based upon the population of the city or county.

3.1.1 The population of all Parties is based on the April 2006 Washington State Office of Financial Management Annual Population Estimate and is described in Exhibit A, attached hereto and incorporated herein by this reference.

3.1.2 Pro-rata share estimates and associated predicted costs as described in Exhibit A are for illustrative purposes only. The pro-rata share apportioned to each city and Snohomish County is dependent on the number of cities who agree to join the Consortium.

3.2 The Parties shall attempt to reach a consensus regarding the direction of the Consultant and negotiators and the preparation of the template. In the event that the Parties cannot reach substantial agreement, voting shall be on a weighted basis, with each Party having as many votes as its pro-rata percentage of the costs to be shared. A quorum shall consist of at least Snohomish County and a majority of the member cities.

3.3 Additional cities may join the Consortium upon satisfaction of the following requirements:

3.3.1 Approval of entry of the city applying (“Applicant City”) by consensus of the current Parties to the Consortium;

3.3.2 Request to join the Consortium is received no later than December 1, 2008;

3.3.3 The Applicant City may join by paying a fee equal to the amount of its pro-rata share of the total cost incurred and billed through its date of entry. The pro-rata share of the Applicant City shall be determined in accordance with Section 3.1; and

3.3.4 Following admittance into the Consortium, the Applicant City will pay its pro-rata share of costs incurred and billed after its date of entry consistent with all other Parties to this Agreement pursuant to Section 3.1.

3.4 A withdrawing Party shall be liable for its pro-rata share of Consortium costs incurred through the date of its departure. Each Party shall be individually liable for all costs associated with individual work requested from the Consultant. Each Party agrees to indemnify and hold the other Parties harmless for the costs which that Party individually incurs.

3.5 All costs of the Consortium incurred under Section 1 shall be billed directly to the individual Consortium members by the Consultant, OMW and Snohomish County. The Parties agree to promptly pay all invoices within forty-five (45) days of the mailing of an invoice for the Parties’ share of undisputed joint costs. Late payments (more than forty-five (45) days after mailing) shall bear interest at twelve percent (12%) per annum with a minimum late payment fee of fifty dollars (\$50.00), provided, however, that if a cost is adjusted through the dispute resolution procedure outlined in Section 10, no late fee shall attach.

3.6 In the event that any portion of the Consortium’s negotiation costs are reimbursed by Comcast as a part of the resolution of these joint negotiations, such reimbursement shall first be applied to any unpaid costs of the Consortium. Any excess monies shall be returned to the Consortium members, pro-rata, in the same percentages established by Section 3.1. This Section 3.6 shall be applied and interpreted to ensure that any recovery on behalf of the Consortium is applied to the costs of the Consortium in the same pro-rata manner as costs are assessed. No member shall be entitled to receive an amount in excess of its actual contribution unless all members receive a pro-rata excess distribution. A party which withdraws pursuant to Section 2.4 or who declines to approve a jointly-negotiated franchise shall forfeit its pro-rata share of a reimbursement, if any such reimbursement exists.

3.7 Nothing herein shall be interpreted to contract away or limit the legislative authority of the governing legislative body of any Party. No Party is or shall be required to formally approve a finally negotiated franchise agreement.

4. **Individually Contracting with the Consultant.**

4.1 The Consulting contract may also provide for each Party to utilize consultant services at a Party's own cost. These services shall only be incurred following the creation of the template. Individually contracted consulting services may include:

4.1.1 Individualization and revision of the franchise template to accommodate the personalized needs of a Party;

4.1.2 Negotiation support during each entity's individualized negotiations with Comcast;

4.1.3 Presentation of the franchise agreement to City Councils and at a public hearing; and

4.1.4 Additional consulting services related to cable franchising.

4.2 Bills from the Consultant related to services performed at the request of an individual Party pursuant to Section 4 shall be billed by the Consultant directly to the requesting Party. Parties requesting individual services shall indemnify and hold harmless all other Parties from any cost, claim or liability associated with such individual service by the Consultant.

5. **Additional Provisions Required by RCW 39.34.030.** In addition to the provisions previously stated regarding duration, organization and purpose, the following provisions are included pursuant to the requirements of RCW 39.34.030.

5.1 No joint personal or real property ownership is contemplated under the terms of this Agreement. All rights to the franchise template shall be jointly shared by the Parties, with each having the right to use it at its sole discretion as it deems appropriate. Any individualized work done at the direction of a Party, at the Party's own cost, shall be and remain the property of that Party.

5.2 As referenced in Section 1.3, the Parties intend to participate cooperatively in the preparation of a template. The development of the template shall be through the Consortium consisting of a designated representative from each body, and at the Parties' discretion, legal counsel as appropriate. Decision-making shall be by consensus, provided however, that if significant consensus cannot be reached regarding the joint preparation of a template, voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

5.3 This Agreement shall be posted on the City of Woodinville's website. Parties not listed in the original web-site posting may be joined when the signature page indicating their agreement has been posted on either the City of Woodinville's website or the website of the joining city, whichever first occurs.

6. **Monetary Cap on Consulting Services.** The cost of the joint Consulting services under this Agreement shall not exceed a total of \$155,000 (this amount does not include

any monies paid to OMW or Snohomish County). This monetary cap on fees associated with Consulting services includes all Consulting fees and related expenses. This monetary cap on fees associated with Consulting services does not include additional Consulting services requested by an individual Party as described in Section 4.

6.1 The Parties may expand the monetary cap on joint Consulting services only upon a consensus agreement of the Parties. If a consensus cannot be reached then voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

6.2 Following a vote to expand the cap pursuant to Section 6.1, Parties not desiring to expand the joint consulting services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of the pro-rata cost incurred up through the time of withdrawal and in no event shall exceed its pro-rata share of the cap established by Section 6 or previously amended with the approval of the withdrawing Party, (excluding any individually authorized consulting services).

7. **Monetary Cap on OMW Services.** OMW will facilitate, organize, report and communicate with the Consortium, Consultant, Comcast, and any other interested party on behalf of the Consortium. Additionally, OMW will provide the services of an assistant negotiator on behalf of the Consortium. The assistant negotiator will attend all meetings. Services to the Consortium will be provided by Elana Zana at a billing rate of \$180 per hour. The cost of OMW services attributed to the Consortium under this Agreement shall not exceed a total of \$30,000. This monetary cap on fees associated with OMW services includes all legal and administrative services and costs.

7.1 The Parties may expand the monetary cap on OMW services only upon a consensus agreement of the Parties. If a consensus cannot be reached then voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

7.2 Following a vote to expand the cap pursuant to Section 7, Parties not desiring to expand the OMW services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of the pro-rata cost incurred up through the time of withdrawal and in no event shall exceed its pro-rata share of the cap established by Section 7 or previously amended with the approval of the withdrawing Party (excluding any individually authorized legal services).

8. **Monetary Cap on Lead Negotiator Services.** Peter Camp, of the Snohomish County executive's office, shall serve as lead negotiator (hereinafter "Lead Negotiator"). The Lead Negotiator will direct negotiation and will, through the administrative services of the assistant negotiator, provide reports to the Consortium and receive negotiating direction from the Consortium. Snohomish County shall be reimbursed at the rate of \$93.25 per hour to compensate it for its direct employee and reasonable administrative costs. The cost of Lead Negotiator services attributed to the Consortium under this agreement shall not exceed a total of \$10,000. This monetary cap on fees associated with Lead Negotiator services includes all legal, administrative services and costs. The rate and the monetary cap include Snohomish County's own proportionate share for which Snohomish County is responsible under this Agreement.

8.1 The Parties may expand the monetary cap on Lead Negotiator services only upon a consensus agreement of the Parties. If a consensus cannot be reached, then voting shall be by weighted vote based upon each Party's pro-rate share of the costs.

8.2 Following a vote to expand the cap pursuant to Section 8.1, Parties not desiring to expand the Lead Negotiator's services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of pro-rata costs incurred up to the time of withdrawal and in no event shall its payment exceed the pro-rata share of the cap established by Section 8 or previously amended with the approval of the withdrawing party.

9. **Designated Representatives.** The County Executive, City Manager or Mayor of each entity shall designate a representative ("Designated Representative"). Notice to the Designated Representative shall be undertaken through e-mail contacts, provided, however, that any decision to terminate the participation of any Party shall be given in writing and shall be effective when provided to the City of Woodinville, Washington at:

City of Woodinville  
17301 - 133rd Avenue NE  
Woodinville WA 98072  
425-489-2700

with a copy to:

Elana Zana  
Ogden Murphy Wallace, P.L.L.C.  
1601 Fifth Avenue  
Suite 2100  
Seattle, WA 98101  
206-447-7000

10. **Dispute Resolution.**

10.1 Any disputes or questions of interpretation of this Agreement that may arise between Parties shall be governed under the Dispute Resolution provisions in this Section 10. The Parties agree that cooperation and communication are essential to resolving issues efficiently. The Parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process, rather than in the media or through other external means.

10.2 The Parties agree to use their best efforts to prevent and resolve potential sources of conflict through discussion among the Consortium's members.

10.3 The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations. If unsuccessful, the Parties may but are not obligated to utilize mediation. The costs of mediation shall be shared equally between the Parties to the dispute and the remaining members of the Consortium. As an illustration, if

two Parties, A & B, dispute a billing procedure and cost, they shall share the costs of mediation with the remaining members of the Consortium. Party A, 25%, Party B, 25%, and the Consortium, 50% (divided pro-rata among the other Parties as a cost pursuant to Section 3.1).

10.4 Except as otherwise specified in this Agreement, in the event the dispute is not resolved in mediation or the Parties do not agree to mediation, the Parties are free to file suit. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

11. **Confidentiality.** The Parties agree to adhere to the Confidentiality Agreement attached hereto as Exhibit B.

12. **No Indemnity.** Except as specifically provided in Sections 3.4 and 4.2, no indemnity is imposed by this Agreement. The Parties agree to bear their respective liability to the extent and in the percentage determined under the laws of the State of Washington.

13. **General Provisions.**

13.1 The Parties shall not unreasonably withhold requests for information, approvals or consents provided for in this Agreement. The Parties agree to take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The Parties agree to work cooperatively with each other to achieve the mutually agreeable goals as set forth in this Agreement.

13.2 This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement shall be King County, Washington.

13.3 This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person shall have any right of action based upon any provision of this Agreement.

13.4 This Agreement has been reviewed and revised by legal counsel for all Parties and no presumption or rule that ambiguity shall be construed against the Party drafting the document shall apply to the interpretation or enforcement of this Agreement.

13.5 Each Party shall be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties.

13.6 The Parties shall not be deemed in default with provisions of this Agreement where performance was rendered impossible by war or riots, civil disturbances, floods or other natural catastrophes beyond their control; the unforeseeable unavailability of labor or materials; or labor stoppages or slow downs, or power outages exceeding back-up power supplies. This Agreement shall not be revoked or a Party penalized for such

noncompliance, provided that such Party takes immediate and diligent steps to bring itself back into compliance and to comply as soon as practicable under the circumstances without unduly endangering the health, safety, and integrity of both Parties' employees or property, or the health, safety, and integrity of the public, Public Right-of-Way, public property, or private property.

13.7 This Agreement may be amended only by a written instrument executed by each of the Parties hereto. No failure to exercise and no delay in exercising, on the part of any Party hereto, any rights, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein.

13.8 This Agreement constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations (oral and written), understandings and agreements with respect hereto.

13.9 Section headings are intended as information only, and shall not be construed with the substance of the section they caption.

13.10 In construction of this Agreement, words used in the singular shall include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.

13.11 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all counterparts together shall constitute but one and the same instrument.

13.12 In case any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement shall in any way be affected thereby.

13.13 The provisions of Sections 3.1, 4.2, and 11 shall survive termination of this Agreement or the withdrawal of any Party.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement by having its authorized representative affix his/her name in the appropriate space below:

**SNOHOMISH COUNTY:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF BOTHELL:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF CARNATION:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF EDMONDS:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF KENMORE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF LAKE FOREST PARK:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF MERCER ISLAND:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF SHORELINE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF WOODINVILLE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**TOWN OF WOODWAY:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**APRIL 2006 POPULATION ESTIMATES &  
BREAK DOWN OF THE ESTIMATED PRO RATA SHARE**

**SEE FOLLOWING PAGE FOR REVISED PRO RATA SHARE ESTIMATES**

Population information from the Washington State Office of Financial Management and Puget Sound Regional Council (PSRC) census tract population estimates.

The data provided below is for informational purposes only. The total pro-rata share per Party will depend on the number of Parties agreeing to join this Consortium.

<b>County/City</b>	<b>Population (2008) OFM</b>	<b>Percentage of Total Consortium Population</b>	<b>Consultant Costs \$155,000</b>	<b>OMW Costs \$30,000</b>	<b>Snohomish County Lead Negotiator \$10,000</b>	<b>Total</b>
Snohomish County	228,488	53.78%	\$ 83,355.83	\$ 16,133.39	\$ 5,377.80	\$ 104,867.01
City of Shoreline	53,440	12.58%	\$ 19,495.71	\$ 3,773.36	\$ 1,257.79	\$ 24,526.86
City of Edmonds	40,760	9.59%	\$ 14,869.86	\$ 2,878.04	\$ 959.35	\$ 18,707.24
City of Bothell	32,860	7.73%	\$ 11,987.82	\$ 2,320.22	\$ 773.41	\$ 15,081.45
City of Mercer Island	22,650	5.33%	\$ 8,263.06	\$ 1,599.30	\$ 533.10	\$ 10,395.46
City of Kenmore	20,220	4.76%	\$ 7,376.56	\$ 1,427.72	\$ 475.91	\$ 9,280.18
City of Lake Forest Park	12,810	3.02%	\$ 4,673.28	\$ 904.51	\$ 301.50	\$ 5,879.29
City of Woodinville	10,560	2.49%	\$ 3,852.45	\$ 745.63	\$ 248.54	\$ 4,846.62
City of Carnation	1,905	0.45%	\$ 694.97	\$ 134.51	\$ 44.84	\$ 874.32
Town of Woodway	1,180	0.28%	\$ 430.48	\$ 83.32	\$ 27.77	\$ 541.57
<b>Total</b>	<b>424,873</b>	<b>100.00%</b>	<b>\$ 155,000.00</b>	<b>\$ 30,000.00</b>	<b>\$ 10,000.00</b>	<b>\$ 195,000.00</b>

## EXHIBIT B

### CONSORTIUM CONFIDENTIALITY AGREEMENT

1. The Parties agree that, while they shall be under no obligation to do so, they may from time to time choose, in their respective individual discretion, to exchange among themselves during the pendency of the Consortium any joint materials that are relevant and appropriate to the Consortium. The term “Consortium Materials” shall also include any materials developed for negotiation purposes at the expense of the parties.
2. Each Party agrees that any documents or materials (hereinafter termed “Consortium Materials”) it receives from the other Parties or their Counsel, or created at their joint expense under the Agreement, shall be treated and maintained as privileged and confidential communications between Counsel and Parties. It is further understood and agreed that information that is (a) obtained by any of the Parties from any of the other Parties or (b) developed on behalf of any or all of the Parties, will remain confidential and shall be protected from disclosure to any third party except as provided herein.
3. The Parties further agree that they will not disclose these Consortium Materials or the contents thereof, or information regarding the discussions and preparations for negotiations with Comcast, to any person or entity other than the Parties, the Consultant, OMW, their Counsel, consultants, employees or agents, without first obtaining the consent of all Parties who may be entitled to claim any privilege with respect to such materials.
4. If any person or entity requests or demands, by subpoena, public disclosure request, or otherwise, all or any portion of the designated Consortium Materials, the Party receiving such request or demand will immediately notify Counsel for each of the Parties of such request or demand. Counsel for each of the Parties, as applicable, will take all steps necessary to permit the assertion of all applicable rights and privileges with respect to said Consortium Materials and shall cooperate fully in any judicial proceeding relating in any manner to the Consortium Materials. However, this Agreement is not voided if released via a court order by a court or administrative agency of competent jurisdiction.
5. Pending the completion of the negotiation process, all Consortium Materials will remain confidential until the last Consortium member approves or denies a franchise. Upon approval of a franchise agreement by any member the final agreement shall become a public document to the full extent required by law.
6. Consortium Materials shall be used only for purposes of this Consortium and any subsequent related action and shall not be disclosed in any way that is inconsistent with the maintenance of the attorney–client privilege, work product privilege, or any other privilege of any Party or any Counsel in connection with the Consortium.
7. This Agreement shall apply to any and all joint conferences or communications, whether written or oral, conducted by or between the Parties, and to all communications, whether written or oral, made between the Parties, arising from or in connection with the Consortium.

8. This Agreement memorializes prior oral understandings among the Parties and their Counsel with respect to Consortium Materials and negotiations and communications.

9. Each Party shall be obligated to maintain the confidentiality and privileged nature of the Consortium Materials to the extent defined herein. This obligation shall survive the withdrawal of any and all of the Parties from this Agreement or the termination of this Agreement.

10. Each Party agrees that the attorney–client, work product, joint defense, and other privileges applicable to the Consortium Materials may not be waived by any Party or its Counsel without the prior written consent of the Party or Parties that produced, generated or otherwise communicated that privileged information sought to be disclosed.