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Contract No. 105-11

Richland City Clerk
P.O. Box 190
Richland, WA 99352

**INTERLOCAL AGREEMENT
COLLABORATIVE LOCAL CABLE/VIDEO FRANCHISE RENEWAL PROCESS**

THIS AGREEMENT is executed this 3rd day of October, 2011, by and between the CITY OF RICHLAND, a municipal corporation, hereinafter called "Richland," and the CITY OF PASCO, a municipal corporation, hereinafter called "Pasco".

RECITALS

WHEREAS, Richland and Pasco wish to work in a collaborative and joint franchise renewal process whose cable franchises with Charter Communications will expire in 2013; and

WHEREAS, Richland and Pasco wish to obtain specialized services in order to facilitate the cable television franchise renewal process; and

WHEREAS, Richland and Pasco have selected The Buske Group ("the consultant") for facilitating the renewal process; and

WHEREAS, Richland and Pasco are willing to share in overall project management and negotiations with Charter; and

WHEREAS, Federal law governing cable television franchise renewal requires the cities to determine local needs in regard to cable television services, and the cities have determined that a joint process to determine those needs and to negotiate successor franchise agreements is appropriate and in the best interests of the community; and

WHEREAS, pursuant to the Interlocal Cooperation Act, RCW 39.34, et seq., two or more public entities by agreement may jointly exercise any powers common to both parties, including exercise of such powers in each other's jurisdictions; and

WHEREAS, Richland and Pasco therefore desire to enter into an agreement whereby Richland and Pasco shall be responsible for obtaining cable television

franchise renewal consulting services for Richland and Pasco, through a contract with The Buske Group.

IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. **Purpose of Agreement.** Richland and Pasco agree to share in services as stated in the scope of services herein, pertaining to the local cable franchise renewal process. A summary of the services that will be shared by Richland and Pasco is attached hereto as Exhibit "A".

2. **Term of Agreement.** This Agreement will continue in full force and effect until the approval by each City Council of a franchise agreement with Charter Communications or successor company, unless terminated earlier by any party as outlined in Section 6.

3. **Amount and Manner of Payment by Richland and Pasco.** Richland and Pasco agree to share all costs of a consultant selected pursuant to Section 1. The cost of The Buske Group's services is to be shared equally between the cities with the following exceptions:

- a. In the event that one City has need of consultant services for review of Charter's performance, due to conditions of the current franchise which are not common to both cities, and to the extent that such review results in costs that are identifiable and attributable solely to one City, the benefitting City agrees to pay 100% of such costs.
- b. In the event that one City has need of consultant services for negotiation of new franchise terms which are not common to both Cities, and to the extent that such review results in costs that are identifiable and attributable solely to one City, the benefitting City agrees to pay 100% of such costs.

The total cost of the consultant shall not exceed \$144,000. Richland will contract with and make payment to the consultant and invoice Pasco for reimbursement of their portion. If additional funds are required (unless required by the exceptions a. and b. above), Richland and Pasco will negotiate a proposed amendment to this Agreement, stating the required additional funds and each party will have an opportunity to continue with the project pursuant to the Agreement as amended. If a party chooses not to continue its participation due to the need for additional funds, such party may cease to participate by following the termination procedure in Section 6, but will be responsible for its proportionate share of costs to date.

4. **Timely Performance.** Richland and Pasco agree to meet and confer with regard to services as set forth herein as may be required to insure timely and adequate performance of this Agreement.

5. **Hold Harmless/Indemnification.** Richland and Pasco shall defend, indemnify and hold harmless each other as well as their respective officers, officials, agents, employees and volunteers from any liability, suit, cause of action, or other legal proceedings (including reasonable attorney fees and costs) which may be brought or claimed against Richland and Pasco as a result of performance of or failure to perform under this Agreement.

6. **Termination.** Either signatory to this Agreement may terminate this Agreement by giving no less than fourteen (14) days' written notice of the intent to terminate this Agreement. Provided however, neither party may terminate this Agreement prior to completion of the needs assessment except upon the mutual consent of both parties evidenced by both Councils' approval of termination of this Intergovernmental Agreement. Notice shall be considered given when deposited in the United States mail, and addressed as provided in Section 11 below. In the event of termination of this Agreement by either City prior to completion and final payment by that City, the terminating City will pay the other City its share of the costs for all services performed up to that City's total proportionate share of the project costs which were actually and satisfactorily rendered up to date of termination.

7. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and supersedes any and all prior agreements, whether oral or written, relating to the subject matter thereof. Any modification of this Agreement will be effective only if it is in writing and signed by both parties hereto.

8. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way.

9. **Execution of Agreement.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

10. **Applicable Law.** Both parties agree that in the performance of this Agreement, each will comply with all applicable State, Federal and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.


11. **Notices.** The point of contact for Richland on matters pertaining to this Agreement shall be Jon Amundson, Deputy City Manager. The point of contact for Pasco on matters pertaining to this Agreement shall be Stan Strebel, Deputy City Manager.

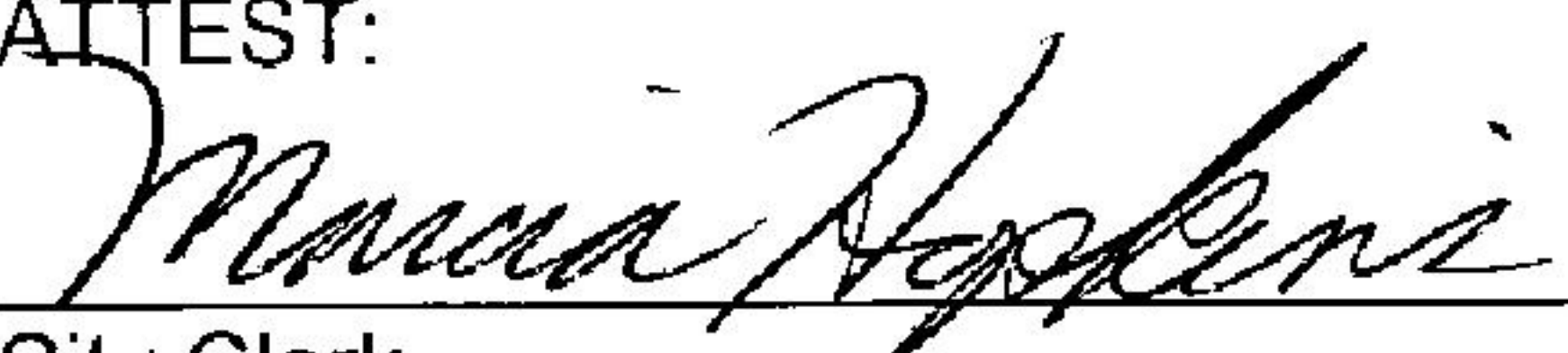
12. **Interlocal Cooperation Act Provision.** Each party shall be solely responsible for all costs, materials, supplies and services necessary for their performance under the terms of this Agreement. All property and materials secured by each party in the performance of this Agreement shall remain the sole property of that party. All funding incident to the fulfillment of this Interlocal Agreement, shall be borne by each party necessary for the fulfillment of their responsibilities under the terms of this Agreement. No special budgets or funds are anticipated, nor shall be created incident to this Interlocal Agreement. It is not the intention that a separate legal entity be established to conduct the cooperative undertakings, nor is the acquisition, holding, or disposing of any real or personal property anticipated under the terms of this Agreement. The contacts listed Section 11 shall be the Administrators of this Agreement. This Agreement shall be filed with the City Clerk of each City, or alternatively, posted on the parties' respective websites as required by RCW 39.34.

13. **Dispute Resolution/Venue.** It is the Parties' intent to first resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. Should those discussions fail, resolution shall be by presentation to the City Managers. In the event the dispute is still not resolved, it shall be resolved by binding arbitration pursuant to RCW 7.04A, as amended, and the Mandatory Rules of Arbitration (MAR); and venue shall be placed in Benton County, Washington, the laws of the State of Washington shall apply, and the prevailing party shall be entitled to its reasonable attorney fees and costs.

IN WITNESS WHEREOF, the parties enter into this Agreement.

CITY OF RICHLAND, WASHINGTON

By: 
City Manager

ATTEST:

City Clerk

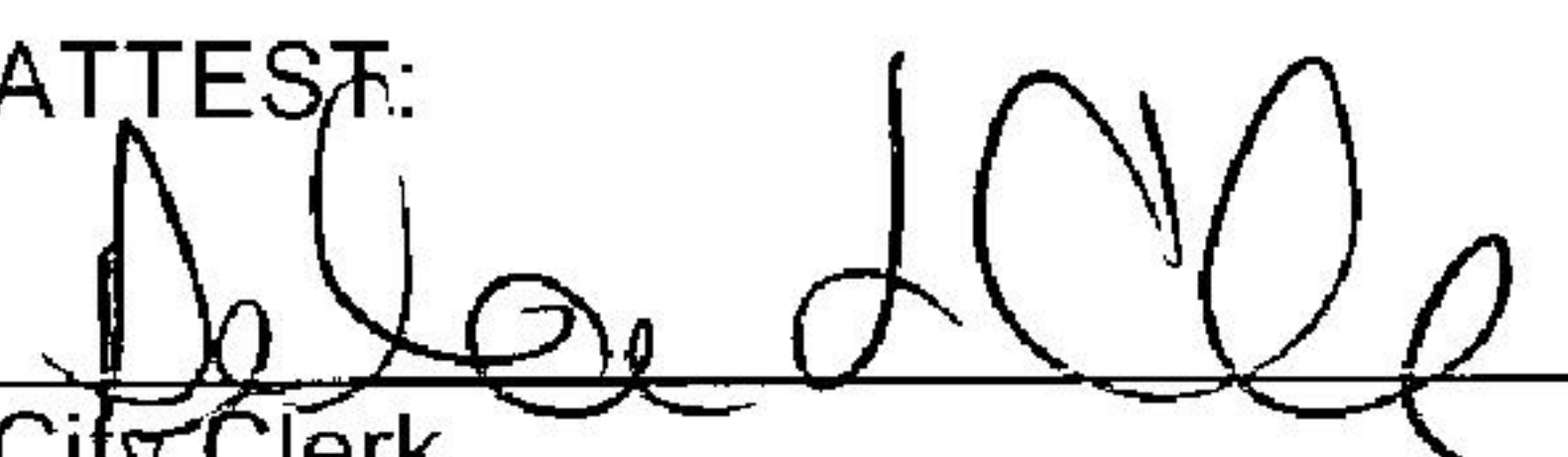
APPROVED AS TO FORM:


City Attorney

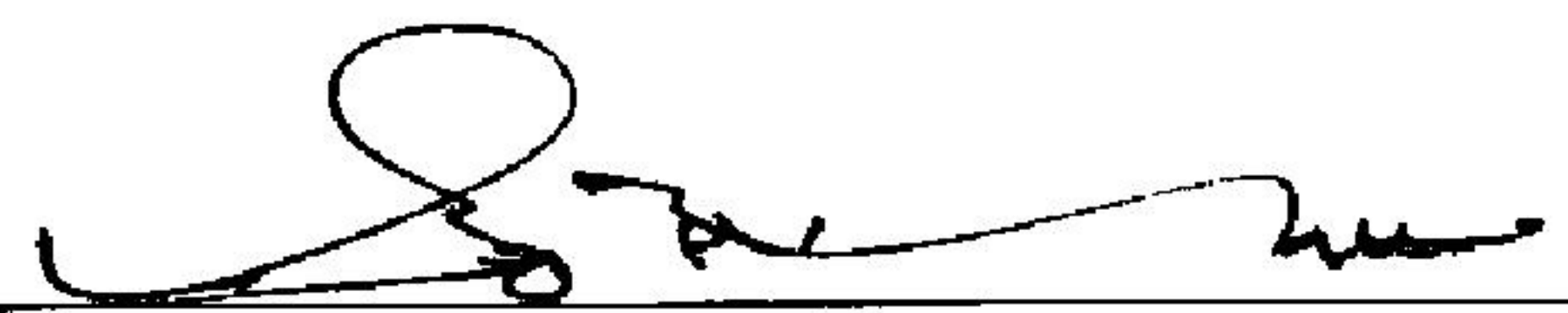
DATE: 9/22/11

CITY OF PASCO, WASHINGTON

By: 
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


City Attorney

DATE 10/3/11

EXHIBIT A

Summary of Services to be Shared by Richland and Pasco

1. Richland and Pasco shall share as project coordinators and negotiators (in conjunction with a negotiator provided pursuant to the contract with The Buske Group) on behalf of the Richland and Pasco in negotiations with Charter regarding a local franchise renewal process. Specifically, the matters to be considered under this agreement would include public, educational, and government access related matters, as well as institutional networks (I-NETs).
2. Richland and Pasco shall share professional consulting services specific to the cable franchise renewal process through a contract with The Buske Group. Those services shall include the following, which shall be provided as part of a joint franchise renewal process including Richland and Pasco.

A. DESCRIPTION OF SERVICES

- Develop a plan for franchise renewal and strategies to implement that plan.
- Conduct an analysis of certain aspects of the past performance of Charter to determine whether Charter (or its predecessors) has performed as required pursuant to its franchise agreement.
- Identify franchise renewal goals, develop positions, and negotiate a renewal (or extended and amended) franchise with Charter, within constraints imposed by Federal law.
- If a renewal (or extended and amended) franchise is negotiated, prepare a draft franchise agreement for action by the respective City Councils of Richland and Pasco.
- Meet with Charter with regard to matters related to its provision of video services within Richland and Pasco pursuant to its video franchise.

3. Richland and Pasco shall regularly coordinate with regard to the tasks described herein. Richland and Pasco and The Buske Group shall meet and confer in regard to negotiating positions to be taken during any negotiations.
4. Richland and Pasco agree to provide each other and The Buske Group timely access to any books, documents, papers, and records that are pertinent to the subject matter of this Agreement.