



**CITY OF KIRKLAND**  
**Information Technology Department**  
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## **MEMORANDUM**

**To:** David Ramsay, City Manager

**From:** Brenda Cooper, Chief Information Officer

**Date:** March 26th, 2009

**Subject:** Legal Fees for Verizon Negotiations and for Redrafts of Telecommunications Titles

### RECOMMENDATION

Council approve the use of \$20,000 from the year-end cash balance from the 2008 budget in order to complete an in-process task to update the telecommunications sections of the Kirkland Municipal Code. The code update is designed to reflect telephone companies (such as Verizon) as an entrant, to accommodate new federal and state laws and court findings, and to make the "rules" easier to read and interpret.

### POLICY IMPLICATIONS

It is important to keep our titles in synchronization with other laws on the same subject. Telecommunications law is a fast-changing area with new businesses and new rules and regulations. This is our second redraft of these laws in this decade, and it is likely that we will have to "touch" them every five years or so unless some more consistency comes down from the Federal level and the FCC. At this point, the new KMC sections have been drafted by Miller Van Eaton, a telecommunications specialist legal firm, and sent out to affected companies doing business in Kirkland in order to get their comments.

These documents deal directly with topics of value to citizens including customer service provisions and right of way management.

### BACKGROUND DISCUSSION

The Information Technology (IT) Department originally requested \$75,000 for the franchise in the 2007 mid-biennial budget process, and we were given permission to spend \$50,000. In a joint decision with our legal department, about half-way through the process, we decided to re-draft our telecommunication laws (Title 26 of the Kirkland Municipal Code) at the same time, in order to better reflect having competition in town and to keep up with recent FCC rulings that have modified the law at the federal level. At that time we obtained permission from the City Manager to access an additional \$35,000 from the non-departmental contingency reserve. Late last year, we received authorization to spend an additional \$12,950 more from that reserve, giving us total budget authority of \$97,950 for the project through the end of 2008.

The franchise, which is now complete, cost \$70,178 dollars, which was \$20,178 dollars over our original appropriation (and about \$4,800 under our original estimate). So far, we've spent \$26,508 of the allocated \$35,000 for the revisions to Title 26. We asked our legal counsel, Miller Van Eaton, to estimate the remaining work based on the actual comments we received from Verizon. They estimate that \$19,550 remains, which brings the Title 26 costs in at almost 25% more than we originally estimated, and the total for the Title 26 work thus becomes \$46,058. The total project (the franchise negotiation and the title drafting work) ends up being currently estimated at \$116,237.

By comparison, the Comcast negotiation cost \$126,256 and took place in the time period between 2003 and 2005 which also included a revision of Title 26.

Here are the actual costs for these two projects through December, 2008:

**Miller Van Eaton: What We've Spent So Far:**

Check Date	Franchise	Title 26	Total
12/26/2007	\$5,579.50		\$5,579.50
2/20/2008	1,280.92		1,280.92
4/1/2008	13,478.75		13,478.75
4/30/2008	6,695.00		6,695.00
7/16/2008	23,711.68	18,102.24	41,813.92
8/13/2008	7,810.25	6,791.25	14,601.50
9/3/2008	4,536.42	647.25	5,183.67
10/8/2008		315.00	315.00
11/12/2008	5,536.00	387.50	5,923.50
11/26/2008	1,550.00		1,550.00
12/10/2008		265.00	265.00
	\$70,178.52	\$26,508.24	\$96,686.76

Here is the estimate for the remaining work:

Remaining estimate	Title 26
Respond to Verizon's comments	10,000
Respond to Comcast pending written comments	5,000
Council Meeting Support	2,000
Contingency (15%)	2,550
<b>Total Requested</b>	<b>19,550</b>

# FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Brenda Cooper, Chief Information Officer							
Description of Request							
Request additional funding of \$20,000 from the General Fund Contingency to complete an in-process task to update the telecommunications sections of the Kirkland Municipal Code (i.e. Title 26). This work was started with the Verizon franchise negotiation in 2008 and is designed to reflect telephone companies (such as Verizon) as an entrant, to accommodate new federal and state laws and court findings, and to make the "rules" easier to read and interpret. The total cost to complete the re-write is higher than originally expected, but is anticipated to be completed with the additional funds later this year.							
Legality/City Policy Basis							
Fiscal Impact							
<b>One-time use of \$20,000 of the General Fund Contingency.</b> The reserve is able to fully fund this request.							
Recommended Funding Source(s)							
<b>Reserve</b>	Description	2010 Est End Balance	Prior Auth. 2009-10 Uses	Prior Auth. 2009-10 Additions	Amount This Request	Revised 2010 End Balance	2010 Target
	General Fund Contingency	50,000	0	0	20,000	30,000	50,000
<b>Revenue/Exp Savings</b>							
<b>Other Source</b>	The General Fund Contingency is recommended to be replenished from the available 2008 year-end cash balance.						
Other Information							

Prepared By	Sandi Hines, Financial Planning Manager	Date	March 30, 2009
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