

## CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is made by and between City of Craig with offices for transaction of business located at \_\_\_\_\_ ("Customer"), and NEO Fiber, Inc., doing business as NEO Connect, with offices for transaction of business located at PO Box 2664, Glenwood Springs, Colorado 81602 ("NEO").

### Recitals

Customer hereby engages NEO to provide certain professional consulting services ("Services") as set forth in supplemental written instructions issued by Customer to NEO and signed on behalf of both parties by their authorized representatives describing in detail, among other things, the description and/or specifications of the Services to be performed ("Task Order(s)"). Each Task Order shall be supplemental to this Agreement and the first shall be designated "Task Order One," and successive Task Orders shall be similarly identified in numerical order; and,

NEO accepts such appointment and agrees to perform the Services described herein and in each Task Order(s).

### Agreement

In consideration of the promises and covenants contained herein, Customer and NEO agree to the accuracy of the above recitals and further agree as follows:

1. **Term.**

1.1. This Agreement shall remain in effect for twenty-four months commencing June \_\_\_\_\_, 2016, unless sooner terminated as allowed herein. The parties may extend the term of this Agreement by mutual agreement signed by both parties.

1.2. NEO will complete the Services by the completion date(s) set forth in individual Task Orders issued by Customer, unless sooner terminated as allowed herein.

**TERMINATION.** Each party shall have the right for its convenience to terminate this Agreement by giving the other party written notice at least thirty (30) days prior to the effective date of termination. Any notice given by Customer shall specify the extent to which this Agreement terminated and the nature and scope of Services, if any, NEO shall continue to perform until the effective date of termination. Upon termination of this Agreement, Customer shall pay all remaining fees for actual hours spent under each respective Task Order, with thirty (30) days of termination notice. Termination of the Agreement does not allow the Customer to waive its obligation of paying respective fees outlined in each Task Order for hours worked. If a Task Order's service fees are not based upon an hourly rate, the respective fees in the event of termination will be outlined in that specific Task Order.

### SERVICE FEE, EXPENSES AND PAYMENT.

1.3. As consideration for NEO's performance of Services in accordance with the specification for Services set forth in this Agreement, Customer shall pay NEO the amount(s) specified in individual Task Order(s). If the Scope of Work changes in the specified Task Order(s), NEO and Customer will discuss

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The contents of this document are confidential and proprietary and may not be disclosed to any persons who do not have a need to know the contents.

and amend the Scope of Work to include such changes. In addition, if specified in the applicable Task Order(s), NEO shall be reimbursed for reasonable expenses actually and necessarily incurred at the direction of the Customer. The reimbursement of such expenses shall be in accordance with the standard expense reimbursement policy of Customer.

1.4. NEO shall issue invoices following the delivery or completion of Services rendered or monthly for Services provided on an ongoing basis. Invoices will contain an itemized description of all expenses, charges, costs, Service descriptions, and all state, federal, sales or other applicable taxes separately. All undisputed invoices will be paid within thirty (30) days of receipt. Payment shall not constitute acceptance or approval of Services or a waiver by Customer of any right.

1.5. NEO shall maintain complete and accurate records of all amounts billable to and payments made by Customer hereunder in accordance with recognized accounting practices. NEO shall retain such records for a period of four (4) years from the date of final payment for Services. During the term of this Agreement and the respective periods in which NEO is required to maintain such records, Customer and its authorized agents and representatives shall have access to such records for purposes of audit during NEO's normal business hours and upon reasonable written notice.

2. **INDEPENDENT CONTRACTOR.** NEO hereby declares and agrees that it is engaged in an independent business and will perform its obligations under this Agreement as an independent contractor and not as the agent or employee of Customer; that NEO will be solely responsible for all matters relating to payment of social security, withholding and all other federal, state and local laws, rules and regulations governing such matters; and that NEO will be responsible for NEO's own acts during the performance of NEO's obligations under this Agreement.

3. **SOLICITATION OF EMPLOYEES.** Customer agrees that throughout the period during which NEO is working on Customer's behalf and for one year thereafter, Customer will not offer employment to any of NEO's employees or affiliate staff without NEO's prior written consent.

4. **OWNERSHIP.** All technical or business information, in whatever medium or format, including but not limited to, data, specifications, processes, drawings, records, reports, proposals, and related documentation, research, or other information, originated or prepared by or for NEO in contemplation of, or in the course of, or as a result of, work performed hereunder ("Prepared Information"), shall be promptly furnished to Customer, and is owned by the Customer. Prepared Information specifically excludes NEO's preexisting works and/or Prepared Information developed by NEO or acquired by NEO that was not specifically developed for Customer. Customer is hereby entitled to use said information as deemed necessary for its purposes including the possibility of assigning said information to any companies related to the Customer.

5. **CONFIDENTIAL AND PROPRIETARY INFORMATION.**

5.1. During the term of this Agreement, NEO and Customer may receive confidential and proprietary information ("Proprietary Information") belonging to the other or third parties. Proprietary Information may include but is not limited to Customer's plans, strategies, processes, ideas, concepts, materials, processes, techniques, software programs, the concepts contained in such programs, documentation, test results, third party financial information and business or technical plans. Information which: (i) is in the public domain through no act or omission of the receiving party; (ii) was in the receiving parties lawful possession without limitation on disclosure; (iii) is hereafter disclosed lawfully to the receiving party

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without limitation on disclosure; or (iv) if independently developed by the receiving party shall not constitute Proprietary Information.

5.2. NEO and Customer agree to hold Proprietary Information in strict confidence and shall not make such Proprietary Information available to any third party, except Customer's financial and legal advisors, in any form during the term of this Agreement or any time after termination or expiration hereof. Each party shall only duplicate Proprietary Information as necessary to perform their respective obligation under this Agreement.

6. **INSURANCE.** NEO shall carry Commercial General Liability Insurance with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in annual aggregate and Professional Liability Insurance with a minimum of \$1,000,000 per claim and \$2,000,000 in annual aggregate. NEO shall carry Standard Workers' Compensation Insurance as required by law.

7. **PROPERTY DAMAGE: LIMITATION OF LIABILITY.** Each party will be responsible for any actual, physical damages it directly causes which results in property damages or personal injury, including death in the course of its performance under this Agreement.

8. **CHOICE OF LAW:** The laws of the State of Colorado (without giving effect to its conflict of law principles) govern all matters arising out of or relating to this agreement, including but not limited to, its interpretation, construction, performance and enforcement.

9. **COMPLIANCE WITH LAWS.** Each party shall comply, at its own expense, with the provisions of all federal, state and local laws, regulations, ordinances, requirements and codes that are applicable to the performance of the Services hereunder, including the environmental regulations applicable to the Site, as well as the Customer's policies on social matters and corporate image.

10. **ASSIGNMENT.** Any assignment or delegation of the rights or obligations hereunder, in whole or in part or any other interest hereunder, without Customer's written consent, shall be void. Customer reserves the right to assign this Agreement to any parent, subsidiary, affiliate, or successor Customer of Customer.

11. **NOTICES.** For purposes of communication, approval, or authorization concerning any matter pursuant to this Agreement, all communications shall be in writing, or if oral shall be reduced to writing, and made by U.S. Mail or other delivery service, facsimile, or personal service to the address noted above. Either party may change its address by giving written notice to the other party.

12. **ENTIRE AGREEMENT.** This Agreement sets forth the entire agreement and supersedes any and all prior agreements, written or oral, between the parties with respect to the Services set forth herein. Neither party shall be bound by, and each party specifically objects to, any term, condition or other provision that is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is proffered by the other party in any correspondence or other document, unless the party to be bound thereby specifically agrees to such provision in writing.

The parties intending to be legally bound have caused this NEO Agreement to be executed on the date(s) set forth below.

**NEO Fiber, Inc.**

**City of Craig**

\_\_\_\_\_  
 Signature  
**Diane Kruse**  
 \_\_\_\_\_  
 Name Typed or Printed  
**CEO**  
 \_\_\_\_\_  
 Title  
**June \_\_\_\_\_, 2016**  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Name Typed or Printed  
 \_\_\_\_\_  
 Title  
**June \_\_\_\_\_, 2016**  
 \_\_\_\_\_  
 Date

**TASK ORDER ONE**  
**Consulting Services, Broadband Planning**

This Task Order One is issued pursuant to the terms and conditions of that certain NEO Agreement between City of Craig ("Customer") and NEO Fiber, ("NEO") dated approximately June \_\_\_\_\_, 2016 (the "Agreement").

**1. SERVICE DESCRIPTION, LOCATION(S) AND FEE(S).**

1.1. This Task Order One shall be effective on June \_\_\_\_\_, 2016 and shall be completed no later than (240) days from the time contract is signed (the "Task Order Term"). Each party shall have the right for its convenience to terminate this Task Order One, during the Task Order Term, or any extension thereof, by giving the other party written notice of termination. Any notice of termination given by Customer shall specify the extent to which this Task Order One is terminated and the nature and scope of the services, if any, NEO shall continue to perform until the effective date of termination.

1.2. The services NEO shall provide are generally described as providing general consulting services for community broadband planning services.

Specifically the Scope of Work to be provided by NEO is:

We can insert the NEO scope of work or refer to the proposal submitted by NEO as an attachment.

Additionally, NEO will provide general consulting services as directed by Customer.

1.3. NEO will be paid by Customer an hourly rate of \$170 (One hundred and seventy dollars) per hour, plus \$80 (Eighty dollars) per hour for travel time and travel expenses as provided for herein. The total hourly fees and expenses for this Task Order One will not exceed \$\_\_\_\_\_ without the prior written consent of the Customer.

**1.4. SERVICE SPECIFICATIONS, REQUIREMENTS AND DELIVERABLES.**

During the term of this Agreement, NEO shall, at the direction of Customer Representative, use their best professional skills, expertise and experience to perform Services.

The nature and scope of the Services associated with this Agreement and the Services will necessitate timely communication to Customer Representative of NEO's findings. Therefore, it will not be possible for all of NEO to be in the form of written reports that detail the nature of NEO's professional Service rendered.

**2. PERFORMANCE STANDARDS.**

NEO agrees to perform the Services with care, skill, and diligence, and shall be responsible for the quality, technical accuracy, completeness, and coordination of all reports, information, specifications, and other items and services furnished under this Agreement. NEO shall comply with all applicable governmental laws, ordinances, codes, and regulations in performing the Services.

The details of said performance shall be detailed by the parties in a Deployment Level Agreement and/or a Service Level Agreement as applicable.

4. CUSTOMER REPRESENTATIVES.

Customer Name: City of Craig  
Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

5. NEO REPRESENTATIVES.

NEO Fiber  
Diane Kruse  
PO Box 2664,  
Glenwood Springs, Colorado 81602  
Telephone: 970-309-3500  
Email: [dkruse@NEOfiber.net](mailto:dkruse@NEOfiber.net) or [diane@NEOconnect.us](mailto:diane@NEOconnect.us)

6. ADDITIONAL TERMS AND CONDITIONS.

This Task Order One and the Agreement shall be read so as to complement each other. However, in the event of an irreconcilable conflict in the terms thereof, the provisions of the Agreement shall have precedence over the terms of this Task Order One.

**NEO Fiber, Inc.**

**City of Craig**

\_\_\_\_\_  
Signature  
Diane Kruse  
\_\_\_\_\_  
Name Typed or Printed  
CEO  
\_\_\_\_\_  
Title  
June \_\_\_\_\_, 2016  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name Typed or Printed  
\_\_\_\_\_  
Title  
June \_\_\_\_\_, 2016  
\_\_\_\_\_  
Date