

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Caroline Cheung via Clay Holstine, City Manager

DATE: Meeting of June 3, 2013

SUBJECT: Extension of Terms with Millbrae Community Television (MCTV) for telecasting and station management services

PURPOSE: Use Channel 27 on Comcast to keep the public informed by showing City Council, Parks and Recreation, Open Space & Ecology, and Planning Commission meetings as well as additional information related to the city.

RECOMMENDATION:

For the Council to extend the City's Vendor Agreement with MCTV until July 4, 2015 with the same terms and conditions, and accept the proposed compensation increases as stated in Exhibit A.

BACKGROUND:

Since 2002, the City has contracted with MCTV to televise City Council and Planning Commission meetings over the City's cable television Public, Education, Government (PEG) channel. In 2005, the City entered into contract with MCTV to provide overall station management services for Ch. 27 and to provide expanded programming and rebroadcast of meetings. These two contracts were combined into one agreement with MCTV in 2009, after having both been extended several times. The City's current Vendor Agreement with MCTV went into effect July 5, 2011 and can be extended for two two-year periods, ending in July 2017.

DISCUSSION:

Currently, MCTV provides one operator for regular City Council meetings for three-camera videotaping. The Planning Commission, Open Space and Ecology Committee, and the Parks and Recreation Commission are telecast using a single camera with staff having been trained on how switch from live to playback settings in the TV room.

During the week, staff from MCTV comes to City Hall to program the rebroadcasts of public meetings, check live internet streaming, and perform basic maintenance of the station equipment rack, as needed. They are also on-call to help resolve audio and video problems during the daytime and evening hours.

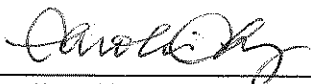
MCTV has provided a revised Exhibit A, located at the end of the Vendor Agreement (Attachment 1). There are nominal changes such as the cost of an operator for live cablecast services going from \$390 to \$410 per meeting, station management/service support going from \$380 to \$410 per week. This latter cost includes tech support not only on the station but also, if possible, on the chamber equipment.

FISCAL IMPACT/FINANCING ISSUES

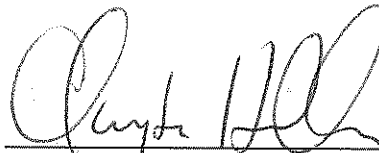
A total of \$34,628.04 is currently needed to cover Cable Programming, Council Programming, and Live Streaming (\$99/mo. paid to Ustream). With the nominal increases in compensation being proposed, the new total for Cable Programming, Council Programming, and Live Streaming comes to \$35,708.04, or a 6.1% increase. There is currently a total of \$37,000 budgeted for these three areas in the 2013-14 budget. Therefore, no increases to the budget are needed at this time.

MEASURE OF SUCCESS

Residents have a knowledgeable sense of the events and happenings taking place in their city.



Caroline Cheung,
Administrative Management Analyst



Clay Holstine,
City Manager

ATTACHMENTS:

Attachment 1 – Adopted 2011-13 Vendor Agreement, with a revised Exhibit A

VENDOR AGREEMENT

THIS AGREEMENT, dated 7/5/2011, 2011 by and between Millbrae Community Television, Inc., a California non-profit corporation ("Operator"), and the CITY OF BRISBANE, a municipal corporation ("City"), is made with reference to the following facts:

A. City desires to award a contract to provide videotaping of public City Council and Planning Commission meetings for live telecasting over the cable television network in Brisbane ("Service").

B. City has entered into a franchise agreement with Comcast of California, Inc. ("Comcast"), which requires Comcast to provide a "reverse feed hookup" to City facilities listed in the franchise agreement.

C. Operator represents that it is trained, experienced and qualified to perform the videotaping and telecasting Service and is willing to do so pursuant to the terms of the Agreement.

NOW, THEREFORE, it is agreed as follows:

1. TERM OF AGREEMENT

The term of this Agreement shall commence on the date of execution of this Agreement, and shall continue thereafter for a two (2) year period, unless terminated sooner pursuant to Section 17, and may be extended for two (2) two (2) year periods pursuant to Section 18.

2. OPERATOR RESPONSIBILITY

(a) Operator shall provide Service to City in accordance with the terms and conditions attached hereto as Exhibit "A" and the terms of this Agreement, including the provision of all equipment and personnel necessary to operate equipment and provide such Service.

(b) Operator shall provide Service to City for all regular City Council meetings, which are held on the first and third Monday of each month. If the regular meeting date is a holiday, the following Tuesday will be a regular meeting date. The Operator shall also provide Service to City for all regular Planning Commission meetings, which are held on the second and fourth Thursday of each month. Operator shall provide Service for additional meetings on an "as available" basis. City recognizes that Operator's resources are limited and that dates for special meetings will be reserved by Operator on a "first come first served" basis.

(c) Operator shall work closely with Comcast to ensure that Operator's equipment is compatible with AT&T's reverse feed connection at City's facilities.

(d) Operator shall work closely with Comcast and take all reasonable measures needed to ensure that a clear and audible signal of the live telecast of the City Council and Planning Commission meetings reaches the cable subscribers in Brisbane.

(e) Operator shall invoice City for compensation due, as set forth in Section 3 and Section 5 of this Agreement.

(f) Operator shall begin Service immediately upon execution of this agreement.

3. COMPENSATION

(a) Operator's compensation during the term of this Agreement shall be based on the quoted Cost per Meeting rate, as set forth in Exhibit A attached hereto and incorporated herein by reference.

(b) Compensation per meeting shall include all set up and break down of equipment and pre meeting testing of equipment and telecast signal as set forth in Exhibit A attached hereto and incorporated herein by reference.

4. **INSURANCE.** Operator, at its own expense, shall procure and maintain, for the duration of this Agreement, insurance policies which satisfy the following requirements:

(a) Type of policies and coverage:

(1) *General Liability Coverage.* Operator shall maintain commercial general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage, providing coverage at least as broad as Insurance Services Office Commercial General Liability form CG 0001 (Ed. 11/88). If the form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

(2) *Automobile Liability Coverage.* Operator shall maintain automobile liability insurance in an amount not less than \$1,000,000 combined single limit for each occurrence, for bodily injury and property damage, providing coverage at least as broad as Insurance Services Office form CA 0001 (Ed. 12/90) Code 1 (any auto).

(3) *Workers' Compensation and Employer's Liability Coverage.* Operator shall maintain workers' compensation insurance as required by the State of

California and employer's liability insurance in an amount not less than \$1,000,000 per occurrence, for any and all persons employed by Operator in connection with the performance of services under this Agreement. In the alternative, Operator may rely on a self-insurance program to provide this coverage so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or Operator, if a program of self-insurance is provided, shall waive all rights of subrogation against City for loss arising from work performed by Operator for City.

(b) Endorsements: Each general liability and automobile liability insurance policy shall contain, or be endorsed to contain, the following provisions:

(1) The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Operator; products and completed operations of Operator; premises owned, occupied or used by Operator; or automobiles owned, leased, hired or borrowed by Operator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents or volunteers.

(2) For any claims related to the Service, Operator's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, agents or volunteers shall be excess of Operator's insurance and shall not contribute with it.

(3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, its officers, officials, employees, agents or volunteers.

(4) Operator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(5) Operator's insurance coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

(c) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Operator shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

- (d) Acceptability of Insurers. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII, unless otherwise approved by City in writing.
- (e) Verification of coverage. Operator shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required by this Agreement. Certificates of such insurance shall be filed with City before commencement of work by Operator. At the request of City, Operator shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by this Agreement.

5. BILLING AND PAYMENT

(a) Operator shall submit monthly invoices for compensation, including any documentation, by the tenth (10th) of each month for services provided in the previous month.

(b) City shall make payment to Operator in accordance with invoices that reflect the actual services provided during the previous month. Payment shall be made by City within thirty (30) days after receipt of approved invoices.

(c) Any necessary supporting documentation for payment must be included with the invoice.

6. CHANGES IN COST OR LEVELS OF SERVICE

(a) No change shall be made by Operator to the cost of providing Service, as set forth in Section 3, in the absence of written agreement to such change by City.

(b) No change shall be made by Operator in the Service without the prior written approval of City.

(c) City reserves the right to reduce or increase Service in light of decreased or increased need and/or funding availability. Any changes in the level of Service requested by City will entitle either City or Operator to request an appropriate adjustment in the compensation payable to Operator. City cannot increase the level of Service without the prior consent of Operator.

7. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

8. COMPLIANCE WITH LAWS

Operator shall comply with all applicable local, county, state and federal laws, rules and regulations governing or related to the operation of the Services and the performance by Operator of its duties and responsibilities under this Agreement.

9. PERSONNEL

(a) City shall have the right to reject temporarily or permanently, by notice to Operator, for any reasonable reason whatsoever, any employee furnished by Operator for the provision of the Service. Reasons for rejecting an Operator's employee include, but are not limited to, unprofessional conduct, disruption of meetings, and rudeness to members of the public or City personnel. Operator shall replace promptly any employee not acceptable or rejected by City.

(b) It is understood that Operator shall be solely responsible for payment of all of its employee's wages and employee benefits, if applicable. Operator, without any cost or expense to City, shall faithfully comply with the requirements of all applicable state enactments with respect to employer's liability, worker's compensation, unemployment insurance and other forms of social security, and also with respect to withholding of income tax at its source from wages of Operator's employees. Operator shall indemnify and hold harmless City from any liability, damages, claims, costs and expenses of whatever nature arising from alleged violation of such enactments or from any claims or subrogation provided for in such enactments.

10. PROJECT SUPERVISOR

Operator shall designate a Project Supervisor who shall oversee the operation of the Service. The Project Supervisor shall be responsible for operational management of the Service.

11. TRAINING

Operator shall provide thorough training for all its personnel in the proper performance of their duties. Operator's employees providing services under this Agreement shall receive proper training and instruction at the time of hiring and prior to being assigned to the Service.

12. MINIMUM STANDARDS FOR EQUIPMENT

During the term of this agreement, or any extensions thereto, all equipment to be used for performance of the Service shall meet all criteria listed in Exhibit "A", attached hereto and made a part hereof.

13. PERFORMANCE GOALS

(a) Operator will be responsible for providing timely and reliable Service.

(b) Operator shall provide sufficient back-up equipment to assure that Service will be provided to City without interruption. Operator shall not be responsible for interruption or deterioration of cable signal within Comcast's network.

14. SUB-CONTRACTING

Operator shall not sub-contract any services provided under this Agreement, without the express written consent of City.

16. CONTACT PERSONS

(a) The following person is hereby designated as the contact person for City:

Ms. Caroline Cheung
Administrative Management Analyst
City of Brisbane
50 Park Place
Brisbane, CA 94005
Phone: (415) 508-2157 Fax: (415) 467-4989
E-Mail: ccheung@ci.brisbane.ca.us

(b) The following person is hereby designated as the contact person for Operator:

Name: Ms. Randy Sahae
Title: General Manager
Address: P.O. Box 898
Millbrae, CA 94030
Phone: (650) 259-2343 Fax: (650) 697-8605
E-Mail: MCTV26@Yahoo.com

17. TERMINATION OF AGREEMENT

(a) City may terminate this Agreement at any time and for any reason by giving Operator thirty (30) days written notice thereof. Notice of termination shall be by certified mail, return receipt requested. Upon termination, City shall pay Operator its allowable costs incurred to date of termination. In the event that Operator at any time during the entire term of this Agreement breaches any of the requirements or conditions of this Agreement, and does not within ten (10) days of receipt of notice thereof from City cure such breach or violation, City may

immediately terminate this Agreement. If a default is cured and the same default subsequently reoccurs, City may terminate this Agreement on written notice to Operator which may be effective immediately.

(b) Operator may terminate this agreement at any time and for any reason by giving City sixty (60) days written notice thereof. Notice of termination shall be by certified mail, return receipt requested.

18. EXTENSION OF TERM

(a) Given the necessity of ensuring continuity of the Service, and as further consideration for the compensation to be paid by City to Operator for the provision of the Service rendered hereunder, Operator grants to City the option to extend the term of this Agreement for two (2) two (2) year periods after expiration of the initial two (2) year term, upon the same terms and conditions set forth in this Agreement, except the rate of compensation payable to Operator during each extended term, which shall be subject to negotiation and agreement between the parties.

(b) If City desires to exercise the option to extend, or further extend, the term of this Agreement, City shall give written notice to Operator of such intention at least ninety (90) days prior to the expiration of the initial term or the extended term, as the case may be. After giving such notice, the parties shall promptly commence negotiations regarding the compensation payable to Operator during the extended term. If agreement is reached, the parties shall confirm the same by executing an addendum to this Agreement, but if the parties are unable to agree, this Agreement shall automatically terminate upon the expiration of the initial or extended term.

19. AGREEMENT NOT EXCLUSIVE

This Agreement is not exclusive. City reserves the right to contract for performance of services such as those described herein through other providers.

20. WAIVER OF CONDITIONS

The waiver of any provision, term, or condition of this Agreement by City on any particular occasion shall not constitute a general waiver of said provision, term or condition, nor a release from Operator's obligation to otherwise perform or observe the same or any other term or condition of this Agreement.

22. INDEMNIFICATION

(a) Operator shall indemnify, keep and save harmless City and its directors, officers, officials, agents and employees (collectively, "Indemnitees") against any and all claims, demands, causes of action, costs, expenses, or liabilities, including attorneys' fees, occurring directly or indirectly by reason of anything done or omitted to be done by Operator or its employees,

subcontractors, representatives or agents in the performance of its duties and responsibilities under this Agreement.

(b) The obligation to indemnify includes the obligation to defend Indemnitees and Operator further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of Indemnitees arising therefrom or incurred in connection therewith; and if any judgement be rendered against any of Indemnitees in any such action, Operator shall, at its expense, satisfy and discharge the same.

23. ENTIRE AGREEMENT

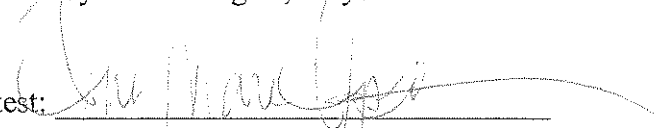
This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties, whether written or verbal. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY:

THE CITY OF BRISBANE,
a municipal corporation

By: 
Cyril G. Bologoff, Mayor

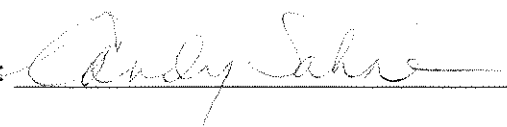
Attest: 
Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:


Harold S. Toppel, City Attorney

OPERATOR:

Millbrae Community Television, Inc.
a California non-profit corporation

By: 

May 28, 2013

1. LIVE CABLECAST SERVICES.
Includes two DVD copies, appropriate titles and graphics, interface with presenter Powerpoint if possible, pre meeting testing of equipment and telecast signal, monitor live Comcast audio and video, and in the case of Community Center and Mission Blue it includes provision of cameras and production equipment, all set up and break down of equipment, pre meeting testing of equipment and telecast signal, management of INET switching and a pre-test of the INET.
 - a. City Council Chamber – Three Camera Videotaping, One Operator - \$410 per meeting.
 - b. Community Center / Mission Blue – Three Camera Videotaping, Two Operators - \$750 per meeting.
 - c. Community Center / Mission Blue / Other Locations – One Camera Videotaping - \$550 per meeting or presentation.

2. NON-CABLECAST VIDEOTAPING and EDITING Services: For events such as the Mayor’s State of the City, which does not go out Live, or Public Service Announcements, a single camera with post production editing is available. Includes 2 DVD copies.
 - a. Camera operator and equipment = \$68 per hour
 - b. Editing = \$42 per hour

3. EQUIPMENT RENTAL – MCTV has additional microphones both wired and wireless for use. Please ask for rates.

4. STATION MANAGEMENT / SERVICE SUPPORT - \$400 per week. Services include:
 - a. Replay of recorded meetings at mutually agreeable dates and times
 - b. Replay of City Staff provided videos at mutually agreeable dates and times
 - c. Posting of City messages on the continuous “message scroll”
 - d. Provide appropriate licensed audio for simulcasting with “message scroll”
 - e. Provide additional programming content from local and professionally produced sources selected to interest your population, to promote viewership on the channel and provide education on subjects important to local viewers. Each week we will provide three to four hours of programming which will repeat at different times on different days.
 - f. Basic maintenance on station equipment rack
 - g. Administer interface with Comcast, particularly with respect to problems in Video and/or Audio on the Channel.
 - h. Periodically check live internet streaming (if activated) for quality of audio and video levels and adjust if needed.
 - i. Be on call to resolve audio and video problems during daytime and evening hours.
 - j. Produce, post to the channel and keep up to date a programming schedule. Also provide that schedule to the City Clerk in format that can be accessed from the City website.
 - k. Provide such reports as are reasonably required by City Staff to oversee our operations.

5. ENGINEERING ASSISTANCE – Provide qualified engineering assistance for design, set up, modification, and upgrading of Audio Visual production and display equipment: \$68 per hour.