



DATE: March 24, 2015

AGENDA ITEM # 6

TO: City Council
FROM: Jon Maginot, City Clerk
SUBJECT: Los Altos public access television

RECOMMENDATION:

- A. Authorize the City Manager to execute a contract with KMVT 15 for management of Los Altos public access television programming
 - B. Authorize the City Manager to execute a contract with KMVT 15 for meeting broadcasting services
-

SUMMARY:

Estimated Fiscal Impact:

Amount: \$143,563 for FY 2015/16 public access television programming
Approximately \$19,000 for FY 2015/16 meeting broadcasting services

Budgeted: Yes; General Fund Operating Budget

Public Hearing Notice: Not applicable

Previous Council Consideration: Not applicable

CEQA Status: Not applicable

Attachments:

1. Draft KMVT Service Agreement for management of public access television programming
2. Draft KMVT Service Agreement for meeting broadcasting services

BACKGROUND

The City of Los Altos contracts with KMVT 15 (KMVT) for public access television programming. KMVT provides a wide range of services to the City, including:

1. Facility usage for City-sponsored programming: Up to ten Los Altos Programs produced by residents and/or the City
2. Community access for residents: Residents of Los Altos may use KMVT equipment to produce programming
3. Cablecasting: City meetings and programming are broadcasted by KMVT on the City's dedicated channel
4. Webcasting: Programs developed under the contract are uploaded and maintained on KMVT's Youtube channel
5. Programming: Los Altos residents may broadcast their programs on KMVT 15
6. Media: KMVT provides recording and storage materials for programs produced under the contract
7. Sports programming: KMVT covers and broadcasts certain Los Altos, Mountain View and St. Francis High School sports programs
8. Webcasting sports programming: Sports programs covered by KMVT are webcast through KMVT's website
9. Bulletin Board Services: KMVT displays community messages on the City's community access channel during non-video programming hours.

The City also contracts with KMVT to provide audio/visual support during the broadcasting of City Council and Planning and Transportation Commission meetings.

DISCUSSION

The City's current service agreement with KMVT expires on June 30, 2015. The proposed agreement maintains current service levels and is for five years. It is recommended that automatic renewal of the contract upon completion of the contract term be included. However, either party may terminate the agreement upon proper notification of intent to do so.

The contract for audio/visual support during certain City meetings is also in need of updating. Originally the service was to be solely for City Council meetings. Broadcasting of Planning and Transportation Commission meetings was added in 2012.

FISCAL IMPACT

The proposed cost for the public access television service for Fiscal Year 2015/16 is \$143,563. Following the first year, KMVT will provide the City with an annual updated rate based on the CPI for the previous 12-month period.

The proposed cost for providing audio/visual support for Fiscal Year 2015/16 is approximately \$19,000. Following the first year, KMVT will provide the City with an annual updated rate based on the CPI for the previous 12-month period.

PUBLIC CONTACT

The Executive Director of KMVT 15 was provided a copy of this report.

Posting of the meeting agenda serves as notice to the general public.

**SERVICE AGREEMENT BETWEEN THE CITY OF LOS ALTOS
AND MOUNTAIN VIEW COMMUNITY TELEVISION
FOR MANAGEMENT OF LOS ALTOS PUBLIC ACCESS TELEVISION PROGRAMMING**

THIS AGREEMENT, dated _____, 2015, is by and between the CITY OF LOS ALTOS, a municipal corporation ("CITY"), and MOUNTAIN VIEW COMMUNITY TELEVISION (dba KMVT), a non-profit corporation ("CONTRACTOR").

WHEREAS, CITY is in need of specialized services in relation to the management of the CITY's Public Access Television Programming ("Access Los Altos"); and,

WHEREAS, CONTRACTOR possesses the skill, expertise and facilities to provide the required services;

NOW, THEREFORE, the Parties enter into this agreement.

1. Services by CONTRACTOR

CONTRACTOR shall provide services in accordance with Exhibit "A", attached and incorporated by reference. The Parties agree that the nature of the services to be provided by CONTRACTOR necessitate that the services be performed on CONTRACTOR's premises, located at 1400 Terra Bella Ave., Suite M, Mountain View, California. CONTRACTOR therefore agrees to furnish space on its premises and use of its equipment, as well as provide for cablecast services, as set forth in Exhibit "A".

2. Time for Performance

The term of this Agreement shall be from July 1, 2015 through June 30, 2020, with an automatic renewal of five years, unless otherwise terminated. The Parties agree to join in periodic reviews of performance under the Agreement if requested by either party and to consequently resolve any identified issues of concern through good faith negotiation.

3. Duties of CITY

CITY to designate a Liaison person with authority to coordinate the personnel and activities of Access Los Altos with CONTRACTOR. CITY to arrange for playback of programming produced under this Agreement with a third party, and CONTRACTOR shall have no playback obligations of any kind (This includes but is not limited to the delivery of Los Altos producer's tapes to playback party, the scheduling of Los Altos producers programming on the Los Altos cable system etc.) CITY agrees that Los Altos producers shall adhere to all CONTRACTOR's rules and regulations as set forth from time to time in CONTRACTOR's most current "Community Access User's Guide." CITY further agrees that each Access Los Altos volunteer shall sign CONTRACTOR's most current "Access User Statement of Compliance Agreement" and each Access Los Altos producer shall sign CONTRACTOR's most current "Community Producer Statement of Compliance Agreement" prior to any participation in CONTRACTOR's services.

4. Compensation

CITY agrees to pay CONTRACTOR at the rates and in the amounts specified in Exhibit "B", attached and incorporated by reference. All costs and fees as shown in Exhibit "B" will be billed to CITY on a monthly basis.

5. Compliance with Laws

a. CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, gender, age (persons 40 years or older), disability, or any other basis to the extent prohibited by federal, state or local law. All employees of CONTRACTOR shall be treated during employment without regard to their race, creed, color or national origin.

b. CONTRACTOR shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies in any manner affecting the performance of the Agreement.

6. Independent Contractor

CONTRACTOR is acting as an independent contractor in furnishing the services and facilities and performing the work required by this Agreement, and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR. CONTRACTOR is solely responsible for its obligations of required state and federal taxes.

7. Indemnity

CONTRACTOR agrees to indemnify and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property arising out of or in any way connected with any negligent act or omission of CONTRACTOR, its officers, employees, agents, contractor, subcontractors or any officer, agent or employee thereof in relation to CONTRACTOR's performance under this Agreement.

8. Insurance

CONTRACTOR has and shall maintain, during the life of this Agreement, policies of insurance as specified in Exhibit "C", attached and incorporated by reference.

9. CITY Representative

The City Manager, as the CITY's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and facilities to be provided under this Agreement shall be coordinated through the CITY representative.

10. CONTRACTOR Representative

The CONTRACTOR's Executive Director shall represent CONTRACTOR in all matters pertaining to the services and facilities to be rendered under this Agreement. All requirements of CONTRACTOR pertaining to the services and facilities to be provided under this Agreement shall be coordinated through the CONTRACTOR representative.

11. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: City Manager
 City of Los Altos
 1 North San Antonio
 Los Altos, CA 94022

To CONTRACTOR:

 Executive Director
 Mountain View Community Television
 1400 Terra Bella Ave., Suite M
 Mountain View, CA 94043

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered. Each party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after date of mailing.

12. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

13. Termination

This Agreement can be terminated by either CITY or CONTRACTOR upon provision of thirty (30) days written notice. Should the City terminate this agreement early, the CITY shall pay CONTRACTOR the prorata portion of the services used up to the time of termination that the CITY has incurred according to the terms in Exhibit "B."

14. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

15. Mediation

All claims, disputes and controversies arising out of or in relation to the performance, interpretation, application or enforcement of this Agreement, including but not limited to breach thereof, shall be referred to formal mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration.

16. Entire Agreement, Amendment

This writing constitutes the entire agreement between the Parties relating to the services and facilities to be provided or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by all Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

CITY OF LOS ALTOS ("CITY")

MOUNTAIN VIEW COMMUNITY TELEVISION
("CONTRACTOR")

By

By

City Manager

President, MVCTV Board of Directors

APPROVED AS TO FORM:

By

City of Los Altos Attorney

Secretary, MVCTV Board of Directors

MVCTV/LA Agreement
EXHIBIT “A”

CONTRACTOR understands CITY’S need to provide public access services for the community of Los Altos. The following outlines the conditions on which the CONTRACTOR (also referred to as KMVT) will provide space, equipment, and services to the CITY (also referred to as LA).

1. Facility Usage for CITY-sponsored Programs

Up to ten (10) LA/CITY-sponsored organizations’ 30-minute programs (“Los Altos Programs”) will be served under this agreement (see Exhibit B for detail).

The 10 Los Altos Programs producers and crews associated with such programs shall be served by this agreement under the following conditions:

- A) Programs are produced by Los Altos residents and/or City-sponsored organizations
- B) All producers and crew members working on said programs have been fully trained in CONTRACTOR’s workshops, at their expense and will abide by the standard KMVT rules, regulations, and general access fees as defined in the CONTRACTOR’s *Community Access User’s Guide* and Access Fee schedules.

Los Altos Programs producers and crews will receive the same production priorities as Mountain View residents.

CONTRACTOR and CITY agree that the Los Altos Programs producers and crews will have unlimited use of KMVT production facilities for the following space and equipment:

- Studio
- Editing
- Dubbing
- Camcorder

All equipment and studio times used by the Los Altos Programs organizations shall be booked according to CONTRACTOR’s regulations and policies as outlined in the CONTRACTOR’s *Community Access User’s Guide*.

2. Community Access for Los Altos Residents

CONTRACTOR will provide community access to Los Altos residents for all standard facilities and equipment usage and services under the same terms and conditions as provided to Mountain View residents. As such, Los Altos residents, when not working on Los Altos Programs as defined above (e.g., on their own programs or a 11th + community access program), will be charged personally the standard KMVT community access and other usage fees as defined in the CONTRACTOR’s *Community Access User’s Guide* and Access Fee schedule.

3. *Cablecasting*

CONTRACTOR shall provide CITY cable television cablecast time for Los Altos community access television programming that is provided by Los Altos community access producers. CONTRACTOR shall play back said programming over the cable company provided Los Altos cable television community access channel. Los Altos producers shall comply with all playback guidelines as outlined in the CONTRACTOR's *Community Access User's Guide*.

CONTRACTOR is providing CITY a separate signal for the Los Altos community access channel, allowing Los Altos video programming to be separate from Mountain View programming.

CONTRACTOR shall be responsible for scheduling all Los Altos community access programming on the designated community access channel available to the CITY. All Los Altos producers requesting playback on the Los Altos community access channel shall be provided on a first-come, first-served non-discriminatory basis and shall not deny access to any community access producers from the City based on the content of the programming, consistent with all applicable laws. The amount of playback time provided for non-Los Altos Programs is subject to normal and standard scheduling availability.

CONTRACTOR shall monitor the quality of the Los Altos community access channel output from its facility to ensure the best quality possible given the quality of the programming provided by the Los Altos producer. CONTRACTOR shall also coordinate with appropriate cable company representatives to ensure that the connection of the cable company's system to the CONTRACTOR's playback facility is sufficient and properly functioning so as to minimize the disruption and interference with the signal quality for the dedicated community access channel.

CONTRACTOR and CITY understand that the City of Mountain View has agreed to allow CONTRACTOR temporary access to the City of Mountain View's fiber-optic Institutional Network (INET) for the purposes of serving the CITY's playback needs, and that the use of the INET is conditioned upon the good faith understanding that the CITY and CONTRACTOR will work with the City of Mountain View to develop a long-term agreement for use of the INET.

4. *Webcasting Community Access Programs*

CONTRACTOR shall provide CITY webcasting space and services for Los Altos community access television programming that is provided by Los Altos community access producers. CONTRACTOR shall up-load and maintain said programming at <http://www.youtube.com/kmvt>, its YouTube Channel.

5. *Programming on CONTRACTOR'S Channel*

LA producers are not required to air their programs on CONTRACTOR'S public access channel (KMVT – 15). If an LA producer wishes to air their program on KMVT, their

program will receive the same programming playback priority as non-Mountain View “Produced-at-KMVT” producers, as defined in the *KMVT Community Access User’s Guide*.

6. *Media*

Media is defined as all electronic and magnetic recording and storage material (i.e., video tape, audio tape, mini DVs, DVDs). CONTRACTOR agrees to cover Los Altos Programs media costs up to the maximum of \$50 per month per Program, per CONTRACTOR’s then current prices for such media.

CONTRACTOR will track LA media usage and charge Los Altos Programs producers for media costs in excess of the above limit.

7. *Sports Programming*

Los Altos, Mountain View , & St. Francis High School Sports Programs - KMVT will cover these high schools on KMVT 15. The average number of high school games per week covered is four. CONTRACTOR agrees to air games direct from CONTRACTOR’s facility to the Los Altos channel. For purposes of this contract, the high school sports season is September to June. KMVT may shoot more or fewer games than four per week. CONTRACTOR shall work with the CITY and Los Altos Community TV to air as many games as possible, up to a maximum of four per week. The Sports Programming under this Section will be part of the deliverables of CONTRACTOR as outlined in Exhibit B .

8. *Webcasting Sports Programming*

CONTRACTOR shall provide CITY webcasting services of the above Sports Programming throughout the term of this Agreement at <http://www.kmvt15.org/sports>, CONTRACTOR’s website.

9. *Bulletin Board Services*

CONTRACTOR shall utilize an electronic bulletin board INFONET system and will display community messages on the Los Altos community access channel during non-video programming hours.

EXHIBIT "B"

COSTS and OBLIGATIONS

1. In consideration for the CONTRACTOR provided services annually, as described in EXHIBIT A,

Facility Usage for CITY-sponsored Programs
Community Access for Los Altos Residents
Cablecasting
Sports Programming
Bulletin Board Services
Media

During the Term of this Agreement, CITY shall pay CONTRACTOR an annual sum of \$143,563 , payable in 12 equal monthly payments of \$11,963.58 with these amounts subject to the potential yearly changes defined in Section 2 below.

2. Starting at the beginning of the second year of this Agreement, and annually thereafter during the remainder of the Term of this Agreement, the above prices will change by the percentage amount of the Consumer Price Index for All Urban Consumers for the San Francisco-Oakland-San Jose Area for the previous year, as published by the United States Bureau of Labor Statistics.
3. CONTRACTOR shall keep a running total of Los Altos Programs and other Los Altos residents daily usage statistics and shall provide CITY annual summaries of such statistics.

**MVCTV/COLA AGREEMENT
EXHIBIT "C"**

INSURANCE REQUIREMENTS FOR CONTRACTOR

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance Contractor shall maintain limits no less than:

1. Commercial General Liability \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Los Altos. The Contractor shall guarantee payment of any losses and related investigations, claim administration and defense expenses Within the deductible or self-insured retention.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Los Altos, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Los Altos, its officers, employees, agents or volunteers.
2. For any claims related to this project, the CONTRACTOR's insurance shall be primary. Any insurance or self-insurance maintained by the City of Los Altos, its officers, officials, employees, agents and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it. Except with regards to CITY-owned equipment , in which case CITY self-insurance shall take precedence.

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

4. The CONTRACTOR'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. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Los Altos.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Los Altos.

Verification of Coverage

Contractor shall furnish the City of Los Altos with an original Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Los Altos prior to commencement of work.



AGREEMENT BETWEEN THE CITY OF LOS ALTOS, CALIFORNIA AND KMVT 15 FOR MEETING BROADCASTING SERVICES

THIS AGREEMENT is made and entered into as of the ____ of ____, 2015, by and between the CITY OF LOS ALTOS, a municipal corporation, hereinafter referred to as “**CITY**,” and KMVT 15, a California Corporation, hereinafter referred to as “**CONTRACTOR**.”

RECITALS

WHEREAS, CITY, desires to retain KMVT 15 (CONTRACTOR) for the purpose of providing audio/visual support in the broadcasting of certain City meetings; and

WHEREAS, CONTRACTOR is an independent CONTRACTOR providing similar services to other cities; and

In consideration of the covenants, conditions and promises hereinafter contained, to be kept and performed by the parties hereto, **IT IS AGREED AS FOLLOWS:**

1. **SCOPE OF SERVICES.** CONTRACTOR shall provide the services as described in CONTRACTOR’S proposal, which is attached hereto and incorporated herein as Exhibit A.

CONTRACTOR agrees to perform all the work and furnish all the materials and equipment necessary to complete, in accordance with the applicable construction codes and ordinances, all the described services and works in a good, workmanlike and substantial manner.

2. **SCHEDULE.** The CONTRACTOR shall begin work on April 1, 2015.
3. **TERM.** The term of this Agreement shall continue in full force and effect between April 1, 2015 and June 30, 2020. The CITY and the CONTRACTOR by mutual agreement, may renew the contract for five (5) additional years effective July 1, 2020 if service levels are satisfactory.
4. **COMPENSATION.** CONTRACTOR will perform the work outlined above and will invoice CITY monthly according to Exhibit A.
5. **INSURANCE.** CONTRACTOR shall procure and maintain for the duration of the contract insurance as described in Exhibit B against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or SUB CONTRACTORS.
6. **OWNERSHIP OF DOCUMENTS.** Not applicable.

7. **STATUS OF CONTRACTOR.** The parties intend that CONTRACTOR, in performing the services herein specified, shall act as an independent CONTRACTOR, and shall have control of the work and the manner in which it is performed. CONTRACTOR is not to be considered to be an agent or employee of CITY, and is not entitled to participate in any pension, insurance, bonus, or other similar benefit plan CITY provides its employees. In the event that CITY exercises its right to terminate this Agreement as provided herein, CONTRACTOR expressly agrees that CONTRACTOR shall have no recourse of right of appeal under rules, regulations, ordinances, or laws applicable to CITY employees.
8. **INDEMNIFICATION.** To the fullest extent permitted by law, CONTRACTOR shall defend through counsel approved by CITY, indemnify and hold harmless CITY, its officers, representatives, agents and employees against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities and expenses, including without limitation reasonable attorneys' fees, arising or resulting directly or indirectly from any act or omission of CONTRACTOR or CONTRACTOR'S assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property.
9. **TERMINATION.** This Agreement can be terminated by either CITY or CONTRACTOR upon provision of thirty (30) days written notice. In said event, CONTRACTOR shall be paid for services performed as of the date of notice of termination.
10. **NOTICES.** Any notices to be given under this Agreement by either party to the other shall be in writing and may be effected either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed as follows:

CITY:

Marcia Somers
City Manager
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

CONTRACTOR:

Shelley Wolfe
Executive Director
KMVT 15
1400 Terra Bella Ave
Suite M
Mountain View, CA, 94043

11. **PARTIAL INVALIDITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
12. **BINDING.** This Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, assigns and successors-in-interest to the parties hereto.

13. **NO IMPLIED WAIVERS.** The failure of either party at any time to require performance by the other party of any provisions hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
14. **ASSIGNMENT.** CONTRACTOR shall not assign, delegate, nor transfer any interest in or duty under this Agreement without the prior written consent of CITY, and no transfer shall be of any force or effect whatsoever unless and until CITY has so consented.
15. **TAXES.** CONTRACTOR agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement, and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold CITY harmless from any liability which it may incur to the United States of America or the State of California as a consequence of CONTRACTOR'S failure to pay, when due, all such taxes and obligations. In the event CITY is audited for compliance regarding withholding or other applicable taxes, CONTRACTOR agrees to furnish CITY with proof of payment of taxes on these earnings.
16. **DEFAULT.** In the event CONTRACTOR fails to provide the services set forth in this Agreement due to the fault of CONTRACTOR, CITY shall have the right to either do the work itself or hire an outside CONTRACTOR to perform those services.
17. **APPLICABLE LAW AND FORUM.** This Agreement shall be construed and interpreted according to the laws of the State of California in any action to enforce the terms of this Agreement or for the breach thereof, and shall be brought and tried in the County of Santa Clara, California.
18. **CONSTRUCTION.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in the manner that avoids any violation of statute, ordinance, regulation or law.
19. **INTEGRATION.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by CONTRACTOR for CITY, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by the party to be charged.

APPROVED AS TO CONTENT:

Jon Maginot
City Clerk

APPROVED AS TO FORM:

Jolie Houston
City Attorney

AGREED:

Marcia Somers
City Manager

CONTRACTOR:

Name _____

Title _____

DATE:

EXHIBIT A SCOPE OF SERVICES

CONSULTANT and CITY will work closely together to ensure a successful and professional operation of Los Altos Government Access Channel 26. CITY acknowledges that CONSULTANT will generally deliver services as defined in this Scope of Services in a favorable manner and that there will be occasional errors. The Scope of Services also includes outcome measures that define an acceptable level of service delivery expected from CONSULTANT. In the event that there are repeated errors and service delivery does not meet these outcome measures, specific agreed-upon sanctions may be potentially assessed CONSULTANT as defined below. Exceptions will be made for errors that are beyond the reasonable control of CONSULTANT including, but not limited to, the following:

- power outages,
- equipment failures, or
- incorrect information provided by CITY.

1. Cablecasting of Public Meetings and Other Programming

CONSULTANT shall provide a trained operator to cover and cablecast live meetings of the Los Altos City Council, including Special Meetings, and Planning and Transportation Commission as requested, produce coverage of other meetings or events as requested, and arrange their playback on Los Altos Channel 26 in accordance with CITY-approved playback schedules. CITY shall give CONSULTANT at least 72 hours advanced notice of all meetings to be covered. If such 72 hours advanced notice is not given, CONSULTANT shall make every reasonable effort to cover such meetings but is not required to do so.

Service Level Outcome – CITY expects cablecasts of live meetings to be as error-free as possible. Noticeable and significant programming and operator errors within CONSULTANT'S control should be kept to a minimum and should not exceed (2) two instances per (6) six month period. Errors noted by CITY will be reported by the City Clerk and a record will be kept by. CONSULTANT, who will provide an online reporting document that is made available to the City Clerk at all times.

All incidents or concerns from CONSULTANT AND/OR CITY are to be reported in an online shared document that is to be addressed and provide the outcomes and or recommendations followed up with an email.

CONSULTANT and CITY agree that live television, by nature, is often unpredictable and spontaneous and some operational errors will be beyond CONSULTANT'S control. These errors include, but are not limited to, power outages, cable channel down, natural disaster, to name a few.

. In consideration for the following CONSULTANT provided services annually, as Described:

- Cablecast, Playback, Programming, Scheduling of all City Council meetings
 - Trained operator to cover/cablecast Council Chamber Meetings
 - 25 Council Mtgs. + 5 Special Meetings @ 5 hrs average each year to include travel, set up, wrap
- Coordinating, Scheduling and Monitoring Services
 - Schedule, monitor, prepare graphics, etc (2.5hr/mo)
- All Supervisory Management
 - Supervise, coordinate, invoice, etc. (2.5hr/mo)
- Preventive Maintenance & Troubleshooting (8 hours per month)
 - Testing, analysis, fixes, repairs, installation, etc. (5 hrs/month)

1. Coordinating, Scheduling and Monitoring Services

CONSULTANT shall administer programming, personnel, scheduling and recordkeeping; develop and update procedures associated with Los Altos Channel 26; and provide monthly updates to the CITY. This information shall be in the form of a monthly report which shall include the following items:

- a. Live meetings broadcast (by meeting type, meeting length, date, hours spent on live broadcasting, and name of operator);
- b. Playback programming (by program type, date, and program length);
- c. An itemized description of all preventative maintenance activities undertaken by CONSULTANT and the time allocated to this maintenance;
- d. Training activities (shall be limited to 30 hours per year; additional hours for training new operators shall be pre-approved by CITY);
- e. Special projects (showing date, description, and hours worked); and

2. Preventative Maintenance and Troubleshooting

CONSULTANT shall provide preventative maintenance for Los Altos Government Channel 26 equipment and identify the timely need for its repair and replacement. Such preventative maintenance shall be limited to eight hours of CONSULTANT'S engineer time per month; additional hours needed in a month shall be pre-approved by CITY. Actual equipment repair and equipment replacement costs shall be the responsibility of CITY.

Service levels for the maintenance and repair of equipment shall be as follows:

- a. Notification to City Clerk there is an issue to be reported within 24 hours
- b. After hours, repair calls for the bulletin board system will be responded to on the next business day.
- c. Repair calls for Los Altos Government Channel 26 video production equipment will be responded to within 1 business day.
- d. CONSULTANT shall notify CITY before equipment is removed from CITY premises and when equipment is repaired and returned.
- e. If CONSULTANT determines that equipment needs to be repaired by a vendor, CITY will work directly with Vendor to make sure repairs are happening in a timely manner, CONSULTANT WILL ASSIST WHEN NEEDED

Term of this Agreement, CITY shall pay CONSULTANT an annual sum of \$15,325.20, payable in 12 equal monthly payments of \$1,277.08, with these amounts subject to the potential yearly changes defined in Section 3 below.

2. CONSULTANT shall keep a running total of its hours spent for each category above and report such to CITY on a monthly basis.

3. Starting at the beginning of the second year of this Agreement, and annually thereafter during the remainder of the Term of this Agreement, all prices herein shall change by the percentage amount of or change in the Consumer Price Index for the San Francisco-Oakland-San Jose Area for the previous year, as published by the United States Bureau of Labor Statistics at http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=dropmap&series_id=CUURA422SA0,CUUSA422SA0.

4. If the annual usage of services exceeds the number of hours for each category below (calculated to be 115% of historical usage), CITY shall pay the indicated hourly rates for such excess hours:

a) Cablecast, Playback, Programming, Scheduling of all City Council Meetings	303 hrs @ \$ 44.10/hr
b) All Supervisory Management	72 hrs @ 49.36/hr
d) Preventive Maintenance & Troubleshooting (8 hrs/mo)	96 hrs @ 92.42/hr
e) 36 Hours of Special Events Productions	36 hrs @ 404.33/hr

EXHIBIT B

INSURANCE

CONTRACTOR shall provide his insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements to: **City Manager, City of Los Altos, One N. San Antonio Rd., Los Altos, CA 94022**

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or SUB CONTRACTORS.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

- A. **Commercial General Liability (CGL):** Insurance Services Office Form CG 0001 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence or, if applicable, \$2,000,000 aggregate.
- B. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering , Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
- C. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status. The CITY, its officers, officials, employees, and volunteers are to be covered as insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts or equipment furnished in connection with such work or operations.

Primary Coverage. For any claims related to this contract, the CONTRACTOR's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

Notice of Cancellation. Each insurance policy required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the CITY.

Waiver of Subrogation. CONTRACTOR hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the CITY by

virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the CITY. The CITY may require the CONTRACTOR to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

Verification of Coverage. CONTRACTOR shall furnish the CITY with original certificates and amendatory endorsements effecting the required insurance coverage. All certificates and endorsements are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies and endorsements at any time.

Special Risks or Circumstances. CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.