

WDC

# COUNTY OF SAN MATEO

## Inter-Departmental Correspondence

Date: August 16 1995

TO: Honorable Board of Supervisors

FROM: Neil R. Cullen, Director of Public Works

SUBJECT: *Agreement with Mid-Coast Television, Inc., for Public, Educational, and Governmental Access Services (Community Access Television Services).*

### RECOMMENDATION

Adopt a Resolution authorizing an Agreement with Mid-Coast Television, Inc., for Community Access Television Services.

### Previous Board Action

- Designated Mid-Coast Television Inc. (MCTV) in 1984 as the non-profit entity responsible for community access television services in the Coastside Cable T.V. service area.
- Approved a Cable Television Franchise Agreement with Coastside Cable T.V. for a fifteen year term.
- Approved an Interim Agreement with MCTV for a community access television services for the period May 1, 1995 to September 30, 1995.

### Key Fact

MCTV could not continue to operate Community Access Channel 6 without the funding support provided by the County contributing a portion of the franchise fee revenue paid by Coastside Cable T.V., Inc.

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### Discussion

The proposed Agreement with MCTV provides that MCTV will:

- ◆ Operate and maintain the community access studio and office
- ◆ Purchase and maintain community access video equipment
- ◆ Produce video programming with community access equipment
- ◆ Train volunteers and provide equipment for the production of public service programming, including public meetings, political debates, candidate forums and public service informational programming
- ◆ Supervise a system permitting community members who are trained in the use of video equipment, to check-out or reserve equipment to produce their own community access programming

MCTV currently video tapes City Council and Mid-Coast Community Advisory Council meetings and shows them on community access Channel 6, and we anticipate that they will continue these programs.

The term of the Agreement is three years. It renews automatically for additional three-year periods, unless the County or MCTV gives the other party a notice to terminate at least ninety (90) days before the then current three-year term expires.

### Fiscal Impact

The franchise agreement with Coastside Cable Television, Inc., requires Coastside to pay the County a franchise fee equal to five percent (5%) of gross revenues. The annual franchise fee paid by Coastside Cable is approximately \$60,000. Under this agreement, the County would pay MCTV an amount equal to two percent (2%) of Coastside Cable's gross revenue - approximately \$24,000 per year.

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A form of Resolution and Agreement have been approved by County Counsel and Mid-Coast Television, Inc. has executed the Agreement.



Neil R. Cullen  
Director of Public Works

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cc: Constance Malach, MCTV  
Anthony Iacopi, Coastside Cable T.V., Inc.  
Milt Mares, Deputy County Counsel  
Brian Lee, Manager, Program Services

Resolution No. 59680

Board of Supervisors, County of San Mateo, State of California

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Resolution Authorizing an Agreement with Mid-Coast Television, Inc.,  
for Community Access Television Services

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, San Mateo County is the franchising authority for a portion of the cable television distribution system operated by Coastside Cable T.V., Inc.; and

**WHEREAS**, the Board of Supervisors has approved a Cable Television Franchise Renewal Agreement with Coastside Cable T.V.; and

**WHEREAS**, the Franchise Agreement requires Coastside Cable T.V., Inc., to provide a channel for Public, Educational, and Governmental Access (Community Access); and

**WHEREAS**, the Board of Supervisors has designated Mid-Coast Television Inc. (MCTV) as the provider of community access television services for that portion of the Coastside Cable T.V. territory in the unincorporated area; and

**WHEREAS**, there has been presented to this Board of Supervisors a form of agreement and this Board has reviewed and considered same.

Regularly passed and adopted this 12th day of September, 1995.

AYES and in favor of said resolution:

Supervisors: MARY GRIFFIN  
TOM HUENING  
TED LEMPert  
RUBEN BARRALES  
MICHAEL D. NEVIN

NOES and against said resolution:

Supervisors: NONE

Absent Supervisors: NONE

TED LEMPert  
President, Board of Supervisors  
County of San Mateo  
State of California

Certificate of Delivery  
(Government Code section 25103)

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



RICHARD L. SILVER  
Clerk of the Board of Supervisors

AGREEMENT BETWEEN  
SAN MATEO COUNTY AND MID-COAST TELEVISION, INC.  
FOR COMMUNITY ACCESS TELEVISION SERVICES

A. This agreement, dated the 12th day of September, 1995, between the County of San Mateo (County) and Mid-Coast Television, Inc. (MCTV) is intended to designate MCTV as the public, educational and governmental television services provider, and to provide funding for the public, educational and governmental television services provided by MCTV within that portion of the service territory of Coastside Cable T.V., Inc. (cable operator) which lies within the unincorporated area of the San Mateo Coastside, including but not limited to, Montara, Moss Beach, El Granada, Princeton, La Honda, and Pescadero. The County is the franchising authority for the cable television distribution system serving said portion of the unincorporated area of San Mateo County. This agreement defines the rights and obligations of said parties in connection with the implementation of the community access provisions of the cable television franchise agreement between the County and cable operator dated May 1, 1995, which franchise governs the provision of cable television service by the cable operator. (See Attachment A) It is the intention of County and MCTV by this agreement to conform to the terms of the County franchise referenced above. In

the event of any conflict between the terms of this Agreement and the franchises issued by the County, the franchise shall control.

B. By this agreement the County designates MCTV as the non-profit entity responsible for the provision of Public, Educational, and Governmental Access Functions (Community Access Functions) within the above-described service territory of the cable operator for the term of this agreement.

C. The term of this agreement shall be for three years from the date of its execution. Unless either party shall notify the other in writing at least 90 days prior to the expiration of the three year term of this agreement, the agreement shall be automatically extended for an additional three year term. This automatic renewal may be repeated indefinitely with the parties' consent. In the event that the County terminates this agreement with MCTV pursuant to this provision, County shall use its best efforts to designate another non-profit charitable organization based primarily within the cable operator's service territory to provide community access services. Neither party may terminate this agreement other than by giving notice as described above in connection with the end of the three year term of the agreement, except under the following conditions:

1. The cable operator's franchise expires or is otherwise terminated or rendered inoperative; although for purposes of this agreement, the transfer, sale, or assignment of the cable operator's franchise and/or system to a third party shall not constitute such an expiration or termination of the franchise.
2. MCTV, a public benefit, non-profit corporation, dissolves or ceases to operate as a corporation.
3. By mutual agreement of the parties.
4. Should either party materially breach its obligations under this agreement, then the other party shall have the option to terminate after providing the party alleged to be in breach 90 days written notice of said breach and providing a reasonable opportunity to cure the breach.

Under the conditions listed under subparagraphs 1., 2., and 3. either party may terminate this agreement by providing the other party with 45 days written notice.

D. For the term of this agreement, MCTV shall continue to act as the non-profit entity designated by the County to receive funds to carry out community access programming on the cable operator's system, and to perform the Community Access Functions defined in

this agreement. County shall pay MCTV on a quarterly basis the access funds budgeted by the County for each fiscal year, which funds are collected under the provisions of the franchise whereby the County receives a percentage of gross revenues of the cable operator. For the term of this agreement the following payment procedures shall be in effect. In the absence of precise advance information about the revenues of the cable operator, the County shall, within 20 days of the end of each fiscal year quarter, pay MCTV a fee in an amount equal to 90% of the County-adopted percentage of the gross annual revenues of the cable operator recorded in the same quarter of the previous fiscal year, plus the difference between the amount of the fee advanced in the previous quarter and the fees due based upon the actual quarterly gross revenues in that previous quarter. For purposes of this agreement the cable operators' gross revenues shall be calculated as set forth in the franchise agreement itself. The "County-adopted percentage" of cable operator gross revenues, as used herein, is the percentage of gross revenues to be paid to MCTV to support community access activities (2% at the inception of this agreement) and shall be set by the County during its annual budget process. In addition, when requested by MCTV and approved by the County, MCTV shall receive amounts from the capital assessment fund mechanism provided under the cable operator's franchise, as determined by the County after preparation of a capital expenditure

plan.

E. In consideration of its designation as the community access provider and its receipt of County funds to support community access, MCTV shall be responsible for the following tasks and Access Functions:

1. MCTV shall cablecast community access programming, including public, educational and governmental programming;
2. MCTV shall produce video programming with community access equipment, and shall endeavor to train volunteers and provide equipment for the production of public service programming, including public meetings, political debates and forums related to election proceedings, and public service informational programming;
3. MCTV shall maintain and operate the community access studio and offices, and purchase, and insure community access video equipment, and maintain same in good condition and repair, normal wear and tear excepted, and furthermore, MCTV shall maintain schedules of all video and audio equipment in its custody with a value of \$1000 or greater, and shall differentiate such schedules as to equipment purchased by

money provided under the terms of the franchise and money raised independently by MCTV (See Attachment B);

4. MCTV shall provide education and training for residents of the unincorporated area of the San Mateo Coastside in video production and editing techniques, and supervise a system permitting properly trained community members to check out or reserve community video equipment to produce their own community access programming; and
5. MCTV shall annually provide the County with the following information and documentation:
  - a. Current copies of bylaws and a roster of officers and directors;
  - b. Evidence of adequate insurance for MCTV's equipment, liability for its studio and operations, and broadcast liability insurance;
  - c. An annual report on station programming and activities, including the hours of programming, hours of training, and statistics on facilities and equipment use, etc.;

d. A financial report at the end of the MCTV fiscal year detailing the expenditure of PEG funds and the balance in the PEG fund account.

e. An annual proposed budget, divided into operational and capital budget needs, submitted to the County in conformance with the requirements of the County's regular budgeting process.

f. A current copy of all schedules of video and audio equipment in MCTV's custody with a value in excess of \$1000.

F. MCTV further agrees that it will operate the community access channel, Channel 6, as a public access channel and in doing so will abide by all local, state, and federal law, rules and regulations.

G. This agreement may be amended only with the written consent of the County and MCTV, evidenced by a document signed by authorized representatives of the parties.

H. This agreement is not assignable either in whole or in part.

I. This agreement shall be governed by the laws of the State of

California.

J. Should any dispute arise out of this agreement, the parties shall meet and confer in an attempt to resolve such dispute. If no resolution is reached, either party may request mediation with the assistance of a mutually acceptable mediator. If both parties agree to mediation, the costs of such mediator, if any, shall be equally borne by both parties.

K. MCTV shall undertake and maintain a policy of insurance as required by the State of California for workers' compensation insurance, and a general liability policy in the amount of One Million Dollars (\$1,000,000.00), naming MCTV and County as insureds, providing for protection against any claim, loss, or damage for personal injury, death, and property damage arising from the use of public, educational and governmental equipment or facilities in the custody of MCTV. In addition, MCTV shall maintain broadcasters' errors and omissions insurance in the amount of One Million Dollars (\$1,000,000.00)

L. MCTV and the County each agree to indemnify, defend, and hold each other harmless from any claim, demand, action, suit, or proceeding arising out of their own respective obligations or performance under this agreement.

M. This agreement comprises the entire agreement.

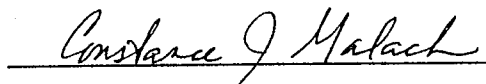
Dated: SEP 12 1995



County of San Mateo

President, Board of Supervisors

Dated: 9-1-95



Mid-Coast Television, Inc.

by: Constance J. Malach

Appendices:

Appendix A: New County Franchise

Appendix B: MCTV Equipment Schedules

Certificate of Delivery  
(Government Code section 25100)

I certify that a copy of the original document filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Clerk of the Board of Supervisors