



City of Placerville MEMORANDUM

DATE: March 23, 2010

TO: City Council

FROM: John Driscoll
City Manager/City Attorney

SUBJECT: **EXECUTION OF AGREEMENT FOR PUBLIC ACCESS WITH SIERRA COMMUNITY ACCESS TELEVISION, INC.**

RECOMMENDATION

That the City Council adopt a resolution authorizing the City Manager to execute an Agreement with Sierra Community Access Television, Inc. (SCAT), providing public access television programming on Channel 2, at such time as SCAT has acquired sufficient operating funds to cover one year's expenses.

DISCUSSION

The City's Cable TV Franchise Agreement dates back to 1972, when a non-exclusive franchise for the operation of a community antennae television system in the City of Placerville was granted to Valley Vision. Since that time, the operator of the cable TV system has changed on more than one occasion, and the current franchisee is Comcast.

In 1984, when King Videocable was operating as the cable TV franchisee, the Franchise Agreement was amended to include, among other things, two local access channels. These access channels are known as PEG access. PEG refers to Public Educational and Governmental access. One of the channels, which is now Channel 2, was dedicated to programming from local government and community groups. The other channel was dedicated to educational access through the El Dorado County Office of Education and various school districts in the area.

In 1997, the City entered into an Agreement with SCAT to provide public/community access programming on what was then Channel 14 (now Channel 2). The principals involved with SCAT at that time were Bill and Mary Britton. After several years, Robert Gilmore succeeded them as the individual acting as the station manager for SCAT. Mr. Gilmore continued to operate as station manager until his unfortunate death a few years ago. Since that time, there has been minimal public access programming on Channel 2. Programming over the last few years has consisted of live, as

well as rebroadcast, City Council and Planning Commission meetings, as well as El Dorado County Board of Supervisors meetings. The El Dorado County Office of Education has provided some additional programming in order to fill some of the void left as a result of Mr. Gilmore's death.

In 2009, staff was approached by Jeanie Redmond, who is the president of the Board of Directors for SCAT, as well as other members of the Board, with a request that the City enter into a new Agreement with SCAT for public programming on Channel 2. Staff was concerned with ensuring that the public programming on Channel 2 be professional, interesting and an asset to the community. As a result, staff, in its discussions with the Directors of SCAT, stressed the importance of proper planning for the operation of Channel 2. Staff indicated that a business plan and funding plan, including a budget, policies and procedures, indemnity agreements and a new agreement with the City, would have to be developed.

Ms. Redmond, as well as other members of SCAT's Board of Directors, worked diligently throughout 2009 to provide staff with the information requested. In developing this information, several meetings between staff and the Board occurred. The requested documents are now in a form with which staff is comfortable and feels are appropriate to present to Council for consideration. The following documents are included with this staff report.

- Agreement between SCAT and the City
- SCAT's Policies and Procedures
- Producer Liability Agreement and Indemnification
- Community Producer Legal Guide
- Business Plan
- Insurance Certificate
- Proposed Source of Revenue and Expense
- Organizational Chart
- Advisory Committee List
- Board of Directors List
- Bylaws
- Request for Funding
- Memorandum of Understanding with Stanleys

In particular, staff has reviewed and made revisions to the Agreement between SCAT and the City with respect to the following provisions. The indemnity provisions have been expanded to include Indemnity Agreements from not only SCAT but also from the producers of programming. The Agreement also contains provisions providing for performance review and early termination of unsatisfactory performance, the City's right to preempt programming for governmental purposes and prohibitions against certain program content.

Staff has also reviewed and made revisions to the Producer Liability Agreement and Indemnification and the Policies and Procedures. Staff has been impressed with the initiative and thoroughness with respect to the manner in which SCAT's Board has approached the operation of Channel 2. They have prepared a business plan, as well as analyzed their expectations for revenue and expenses.

One of staff's main concerns was the ability to have "a professional" on board as the station manager. SCAT has addressed this issue by including in tonight's packet a draft Memorandum of Understanding (MOU) with Todd Stanley Productions (TSP). Pursuant to this MOU, Janice Stanley, as shown on the organization chart, will be the Executive Director/Station Manager. Staff is familiar with the Stanleys and their expertise in producing outstanding, quality programming. TSP produces Experience El Dorado, which appears regularly on Channel 10. The Stanleys are also

involved in the production of the program known as “Deadliest Catch,” which appears on NBC weekly.

Staff feels that with the assistance of the Stanleys, there is an opportunity for SCAT to provide quality programming and make Channel 2 an asset to the community. However, prior to executing the proposed Agreement with SCAT, staff would require that the MOU between SCAT and Stanleys be finalized and executed.

Staff’s other concern is that at this time SCAT does not have sufficient funding to operate public programming on Channel 2. SCAT has indicated that the lack of an agreement with the City has been a significant impediment to their fundraising efforts. It is staff’s hope that with authorization to enter into the Agreement once funding is obtained, that impediment will be eliminated.

SCAT is also requesting funding from the City as set forth in their funding request. The request is for \$1,000 per month for 12 months. Money has not been included in the current fiscal year’s budget for this request, and if the Council were to grant that request, the funds would have to be appropriated, in part, from this fiscal year’s contingency fund. Staff is not in a position to recommend that the Council approve this request for several reasons.

First, the mid-year budget report projects that the City will have a deficit at the end of the fiscal year of approximately \$104,000. Assuming that the \$100,000 contingency contained in this fiscal year’s budget remains intact, the contingency will offset most of the deficit. Nonetheless, recent sales tax figures continue to show a decline in sales tax revenue from last year, and it is quite possible that the deficit at the end of the year could exceed the projected \$104,000. Even if the deficit does not grow, there are not sufficient funds available or budgeted to pay for SCAT’s funding request.

Additionally, this year, the City will be negotiating labor contracts with both of its represented bargaining units. This process has just begun, and the outcome remains uncertain as to the effect of these negotiations on City funds. Therefore, staff, while sympathetic, is not in a position to recommend to the Council that it grant SCAT’s funding request. Staff does recommend, however, that the Council approve the execution of the agreement with SCAT, provided that SCAT will not start operating until they have acquired sufficient funds for one year’s operating expenses.

FISCAL IMPACT

Obviously, if the Council approves SCAT’s funding request, there will be a fiscal impact associated with that. The result could be an increase in the projected deficit for the current fiscal year. If the funding request is not approved, the fiscal impact will consist of staff time associated with the operation of Channel 2.

Respectfully submitted,

John Driscoll
City Manager/City Attorney