

Council Business Meeting

August 3, 2021

Agenda Item	Intergovernmental Agreement with Southern Oregon University for Public Access Television Services (RVTV)	
From	Adam Hanks	City Manager Pro Tem
Contact	adam.hanks@ashland.or.us	

SUMMARY

This is an Intergovernmental Agreement (IGA) with Southern Oregon University to provide government and public access television services through Rogue Valley Community Television (RVTV).

POLICIES, PLANS & GOALS SUPPORTED

Enhance and improve transparency and communication.

PREVIOUS COUNCIL ACTION

See background and additional information.

BACKGROUND AND ADDITIONAL INFORMATION

RVTV, through Southern Oregon University, provides government and public access television services for the City of Ashland. The current Agreement expired on June 30, 2021. Previous agreements have been executed on June 11, 1996, September 9, 2005, June 18, 2012, August 1, 2016, and December 3, 2019.

Services provided are listed under Section 2 of the agreement. These services include:

- Engage in the cable cast of Public Education and Government (PEG) access programming and assume control of all cable channels and interconnect facilities made available to the City for its use.
- Provide to the citizens of Ashland with various educational courses in digital media. An annual certification course in the usage of the RVTV studio and RVTV Public Access Field equipment will be offered. All individuals completing these courses will receive the benefits of usage of the resources on which they were trained at free or reduced rates.
- Provide regular equipment maintenance services and support up to four hours per month to all video and audio equipment located in the City's Council Chambers at 1175 East Main Street.
- Provide telephonic assistance to the City to help trouble shoot any technical problems that should occur during any scheduled City meeting. Such telephonic assistance shall be available at all times. RVTV's telephonic response to the City's telephonic request for assistance should occur within one-half of an hour. RVTV shall provide an "on call" phone number to the City that will be answered by a competent technician.
- Ensure proper repair, maintenance and security of equipment purchased for use at the RVTV facility with City funds provided. All such purchased equipment shall become the property of SOU.
- Produce government access programming for the City, the regularly scheduled bi-monthly City Council meetings, bi-monthly City Council study sessions, monthly Planning Commission meetings, annual Budget Committee meetings, up to twelve additional meetings in council chambers, and up to seven City Band concerts in Lithia Park (weather permitting). Additional media services may be purchased by or under the direction of the City Administrator.
- Reserve playback capabilities for a channel provided by the City of Ashland's Ashland Fiber Network (AFN) or a designated cable television provider.

- Provide Video on Demand (“VOD”) services to include archiving up to 100 programs files of City government access programming for a period of not less than one year from the date of capture. RVTV will link the video programming to the City website within twenty-four hours of the live broadcast.
- Determine, after consultation and approval by the City, use of channels assigned to the City.
- In addition to an annual report summarizing key programming related metrics, consumption trends, and program utilization, SOU shall provide information to the City, upon request, that the City deems reasonable and appropriate regarding SOU’s RVTV activities including, but not limited to, the use of all funds and the provision of all services.

FISCAL IMPACTS

The annual cost for fiscal year 2021/2022 is \$70,640 and for fiscal years 2022 and 2023 is \$72,759, an initial three percent increase followed by two years of no increase. PEG fees collected as part of existing cable TV franchise agreements assist in funding equipment utilized to provide the services listed above. The operating costs associated with the contract are allocated from the General Fund.

STAFF RECOMMENDATION

Staff recommends Council approve this agreement with Southern Oregon University.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

I move to approve the Intergovernmental Agreement with Southern Oregon University for public access television services through RVTV.

REFERENCES & ATTACHMENTS

Attachment 1: Intergovernmental Agreement with Southern Oregon University for Biennium 2021/2023

CITY OF ASHLAND

AGREEMENT FOR RVTV SERVICES BETWEEN CITY OF ASHLAND AND SOUTHERN OREGON UNIVERSITY

This Agreement is entered into the August day of ~~April~~ 2021, by and between THE CITY OF ASHLAND, a municipal corporation (hereinafter “City”) and SOUTHERN OREGON UNIVERSITY (“SOU”).

RECITALS

- A. ORS 190.110 and ORS 190.010 authorizes a unit of local government to enter into an agreement with another unit of local government or state agency for the performance of any or all functions and activities that a part to the agreement has authority to perform; and
- B. The City and SOU have provided cable access television to the community for several years as reflected in the prior agreements between the City and SOU and its predecessors, including agreement dates June 11, 1996, September 9, 2005 and June 18, 2012; and July 25, 2016.
- C. The 2016 agreement and it’s 2017 amendment expires on June 30, 2019 and this Agreement is intended to replace all prior written or verbal agreements between the parties; and
- D. The City and SOU enter into this Agreement to identify their roles and responsibilities in the provision of cable access services by SOU through the operation of Rogue Valley Community Television (RVTV); and

NOW, THEREFORE, in consideration for the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RECITALS. The recitals set forth above are true and correct and are incorporated herein by this reference.
2. DURATION. [ORS 190.020(1)(e)] Except for termination as provided herein, the term of this agreement shall commence upon approval and execution by both City and SOU and shall terminate on June 30, 2023, unless administratively extended in writing as provided for herein. The City Administrator may extend this Agreement twice, by one year each extension, by indicating in writing to SOU that an extension of the Agreement is sought under the same terms and conditions of this Agreement. The extension shall be effective upon receipt of a document from an authorized SOU representative consenting to the extension under the same terms and condition, allowing for increase in funding as noted herein.
3. SOU SERVICES, FUNCTIONS AND RESPONSABILITIES. [ORS 190.020(1)] SOU shall use its best efforts to achieve the following objectives during the period of this Agreement:
 - 3.1 Operate Rogue Valley Community Television (RVTV).

- 3.2 Engage in the cable cast of Public Education and Government (PEG) access programming and subject to this agreement, assume control of all cable channels and interconnect facilities made available to the City for its use.
- 3.3 Provide to the citizens of Ashland various educational courses in Digital Media at a nominal fee (TBD) to the extent possible under State of Oregon COVID restrictions. Individuals completing these courses will receive the benefits of usage of the resources they were trained on, at free or reduced rates.
- 3.4 Provide regular equipment maintenance services and support up to four hours per month to all video and audio equipment at City's Council Chambers.
- 3.5 RVTV's telephone response to the City's phone call request for assistance should occur within a half hour. The City asks that RVTV provide an "on call" phone number that will be answered by a competent technician.
- 3.6 Ensure proper repair, maintenance and security of equipment purchased for use at the RVTV facility with City funds. All such equipment shall become property of SOU.
- 3.7 Produce government access programming for the City, the regularly scheduled bi-monthly City Council meetings, bi-monthly City Council study sessions, monthly Planning Commission meetings, annual Budget Committee meetings, up to twelve additional televised meetings in Council Chambers, and up to seven City Band concerts in Lithia Park (weather permitting). Additional media services may be purchased by or under the direction of the City Administrator within the not-to-exceed limit of this agreement; such additional services shall be charged at the rates reflected on the attached Exhibit A, "Southern Oregon Digital Media Center Production Rate Card".
- 3.8 RVTV will reserve playback capabilities for a channel provided by the City of Ashland's Ashland Fiber Network (AFN) or its designated cable television provider. If AFN, or its designated cable television provider, chooses to utilize the playback capabilities reserved for its use, SOU agrees to make available all applicable programming described in 3.7, as well as additional RVTV programming mutually agreeable to both parties. If AFN, or its designated provider, wishes RVTV to "package" content for the channel, a separate contract for services shall be agreed to by the parties.
- 3.9 Provide Video on Demand ("VOD") services to include archiving up to 100 programs files of City government access programming for a period of one year from the date of capture. RVTV will link the video programming to the City website within 24hrs of the live broadcast.

3.10 Determine, after consultation and approval by city, use of channels assigned to City.

3.11 In addition to an annual report summarizing key programming related metrics, consumption trends and program utilization, SOU shall provide information to the City, upon request, that the City deems reasonable appropriate regarding SOU's RVTV activities, including use of funds and accomplishments under this Agreement.

4. Payment [ORS 190.020(1)(A)] This Agreement involves the payment of money from the City of Ashland to SOU for RVTV services.

4.1 Subject to the condition set out in this Agreement, the City shall pay to SOU for RVTV services in amounts not to exceed:

1.) FY 22 \$72,759

2.) FY 23 \$72,759

4.2 City shall provide all necessary information to SOU to establish the City as a vendor of SOU; such information shall include, but not be limited to City's contact information and tax identification number.

4.3 Equipment upgrades in City Council Chambers desired by the City will be funded separately by the City.

4.4 All payments made to SOU under this Agreement should be send to the following address:

SOU Business Services
Accounts Receivable
1250 Siskiyou Blvd.
Ashland, OR 97520

4.5 SOU is required to comply with the Ashland Municipal Code by paying a living wage, as defined in City code, to all employees performing work under this Agreement, including living wage posting requirements.

5 BUDGET NON-APPROPRIATION The City's obligation to pay and SOU's obligation to provide services and equipment under this Agreement are subject to non-appropriation of funds in the budget process.

5.2 The amount of money payable to SOU under section 4.1 is subject to final appropriation by the City in the budget process on an annual basis. Notwithstanding the termination provisions herein, termination may also occur for such non-appropriation. Specifically, all City obligations to expend money under this Agreement are contingent upon future appropriation as part of the City budget process and local budget law, and the failure of the Council and Budget committee to make the appropriation shall necessarily result in

termination of the Agreement. As such, in the event insufficient funds are appropriated for the payments under this Agreement and the City elects not to utilize any other lawfully available funds, then the City may terminate this Agreement at the end of its current fiscal year, with no further liability or penalty to the City. The City shall deliver written notice to SOU of such termination no later than thirty (30) days from the determination by the City of the event of non-appropriation.

5.3 If sufficient funds are not provided in future legislatively approved higher education budget or the allocation of such budget by the Higher Education Coordinating Commission of SOU to permit SOU in the exercise of its reasonable administrative discretion to continue this Agreement, or if the program for which this Agreement was executed is abolished, notwithstanding any other provision of this agreement, SOU may terminate this Agreement without further liability by giving the City not less than 30 days prior notice. In determining the Availability of funds for this Agreement, SOU may use the budget adopted for it by the Higher Education Coordinating Commission. SOU will include funding in its budget request for each fiscal year sufficient to fulfill the terms of this Agreement.

6 Revenue [ORS 190.020(1)(b)] This agreement does not involve the receipt of revenue which must be apportioned between the parties. Each party shall be solely responsible for revenue, if any received.

7 PERSONNEL [ORS 190.020(1)(D)] No employees will be transferred pursuant to this Agreement. SOU shall be solely responsible for wages and benefits paid to employees working for RVTV.

8 REAL OR PERSONAL PROPERTY [ORS 190.020(1)(d)] There shall be no transfer of title or possession to any real or personal property pursuant to this agreement.

9. TERMINATION [ORS 190.020(1)(F)]

9.1 All or part of this Agreement may be terminated by mutual consent by both parties; or by either party at any time, upon ninety (90) days' notice in writing and delivered by certified mail. In the event of termination of the agreement, each party shall be responsible for its own costs and expenses in complying with the agreement.

9.2 This Agreement may be terminated by either party if the other party commits any material breach of any of the terms or conditions of this Agreement and fails or neglects to correct the same within 30 days after written notice of such breach. If the breach is of such nature that it cannot be completely remedied within the 30-day period, this provision shall be complied with if correction of the breach begins within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as is practicable.

9.3 This Agreement may be terminated for non-appropriation as specified in Section 5.

10. REMEDIES In the event of termination, SOU shall pay to the City any unexpected funds received by SOU at any time for the City. City shall pay SOU for services rendered and costs incurred by RVTV prior to the termination date.

11. ASSIGNMENT SOU shall not assign or transfer any interest in this Agreement without prior written consent of the City, provided, however, that SOU may subcontract the performance of any provision or obligation required by this Agreement, so long as SOU remains primarily responsible to the City for the performance of such provision or obligation.

12. INSPECTION RECORDS

12.1 City shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to properly reflect all costs of whatever nature claimed to have been incurred and anticipated in the performance of this Agreement. The Oregon Department of Higher Education, Oregon Secretary of State, Federal Government and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcript. Such books and records shall be maintained by City for three years from the date of the completion of work unless a shorter period is authorized in writing. City is responsible for any City audit discrepancies involving deviation from the terms of the Agreement.

12.2 City shall have access at all reasonable times, including during normal working hours, to all books and records of RVTV. SOU shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated in the performance of the Agreement. CITY, and their duly authorized representatives shall have access to the books, documents, papers and records of SOU which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by SOU for three years from the date of the completion of work unless a shorter period is authorized in writing. SOU is responsible for any SOU audit discrepancies involving deviation from the terms of the Agreement.

13. HOLD HARMLESS AND INDEMNIFICATION

13.1 The City of Ashland is not providing services but purchasing services through SOU. Accordingly, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the parties both shall hold each other harmless, defend and indemnify the other from any and all claims, demands, damages or injuries, liability of damage, including injury resulting in death or damage to property, that anyone may have or assert by reasons of any error, act or omission of the other, its officers, employees or agents. Similarly, the City of Ashland shall not be held responsible for any claims, actions, costs, judgments or other damages, directly and proximately caused by the criminal; or wanton acts of SOU, its officers, employees, or agents or the negligence of SOU, its officers, employees or agents. If any aspect of this indemnity shall be found to be illegal or invalid for any reasons whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

13.2 Except as provided for in this Agreement, the City shall not be liable for any obligations incurred by SOU. SOU shall not represent to any person that the City is liable for SOU's obligations; except for such obligations the City may be liable as provided for in this Agreement or as provided by law.

14. INSURANCE City and SOU, at their sole cost and expense shall maintain all risk property and public liability insurance policies on the prospective properties and resources included in this agreement. The initial limits of liability required will be \$2,000,000 for each occurrence and \$2,000,000 in aggregate for the liability coverage and all property upon completion of construction shall be written on replacement costs basis.

15. DISPUTE RESOLUTION: City and SOU shall attempt to resolve all disputes through staff discussions at the lowest possible level. Both parties to this Agreement agree to provide other resources and personnel to negotiate and find resolution to disputes that cannot be resolved at the staff level. As a next step, claims, disputes or other matters in questions between the parties to this Agreement arising out of or relating to this Agreement, or breach thereof shall be determined by mediation. Disputes shall be initially submitted to mediation by a mediator chosen by the parties. The cost of mediation shall be borne equally by the parties. If the parties are unable to agree upon a mediator within 5 days or if mediation fails to resolve the dispute, either party may mutually agree to any other form of dispute resolution or pursue litigation.

NOTICE AND REPRESENTATIVES All notices, certificates, or communications shall be delivered or mailed postage prepaid to the parties at their respective places of business as set forth below or at a place designated hereafter in writing by the parties.

City of Ashland

Adam Hanks
City Manager Pro Tem
20 East Main Street
Ashland, OR 97520

Southern Oregon University

Greg Perkinson
Vice President for Finance and Administration
1250 Siskiyou Boulevard
Ashland, OR 97520

And when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

17. MERGER This Agreement constitutes the Entire Agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specific herein regarding this agreement. No amendment, consent, or waiver or terms of this agreement shall bind either party unless in writing and signed all parties. Any such amendment, consent, or waiver shall be effective only in the specific instance and for the specific purpose given. The parties, by the signatures below or their authorized representatives, acknowledge having read and understood the Agreement and the parties agree to be bound by its terms and conditions.

April 2021

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in two (2) duplicate originals, either as individuals, or by their officers' thereunto duly authorized.

DATED this ____ day of April, 2021

CITY OF ASHLAND

By _____

Title _____

Date _____

SOUTHERN OREGON UNIVERSITY

By _____

Title _____

Date _____