



AGENDA ITEM NO.

C-4

# COUNTY OF HUMBOLDT

For the meeting of: April 15, 2014

Date: March 18, 2014

To: Board of Supervisors

From: Phillip Smith-Hanes, County Administrative Officer *PSH*

Subject: New Contract with Access Humboldt for Community Media Services and Public/Educational/Governmental (PEG) Access Programming

### RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the proposed Contract (Attachment 1) and authorize the County Administrative Officer to sign the contract on behalf of the County of Humboldt;
2. Approve the attached Addendum (Attachment 2) as satisfying the Nuclear Free Humboldt County Ordinance; and
3. Authorize the County Administrative Officer to execute extensions to the contract pursuant to Section 21.

SOURCE OF FUNDING: General Fund (Franchise Fees)

Prepared by Phillip Smith-Hanes

CAO Approval *[Signature]*

**REVIEW:**

Auditor \_\_\_\_\_ County Counsel *wbc* Human Resources *[Signature]* Other \_\_\_\_\_

**TYPE OF ITEM:**

Consent

Departmental

Public Hearing

Other \_\_\_\_\_

**PREVIOUS ACTION/REFERRAL:**

Board Order No. F-2 \_\_\_\_\_

Meeting of: 3/21/06 \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
Upon motion of Supervisor *Fennell* Seconded by Supervisor *Bass*

Ayes *Bass, Fennell, Bonn Lavelace, Sundberg*

Nays \_\_\_\_\_

Abstain \_\_\_\_\_

Absent \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report

Dated: *April 15, 2014*

By: *[Signature]*  
Kathy Hayes, Clerk of the Board

DISCUSSION:

Access Humboldt was formed in 2006 to develop and provide PEG access services and to build sustainable community media and broadband access for Humboldt County and the region. By previous agreement, Access Humboldt has provided PEG services since May 9, 2006.

The creation of Access Humboldt was one of the outcomes of an extensive process that was undertaken between 2004 and 2006 as part of the cable television franchise renewal process by the County and the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna and Rio Dell. As a result of the franchise renewal process and negotiations, PEG access channels, optical fiber links, and funding were secured in the renewed franchise agreements between these jurisdictions and Cox Cable. Subsequent to the renewal process, Cox Cable transferred ownership of the franchise to Suddenlink. The contractual obligations of Cox transferred to Suddenlink when the transfer was approved by the County and six cities. Access Humboldt was designated to manage the Community Media Center and those PEG access channels and resources that were the outcome of that franchise renewal process.

The Franchise Agreements with Suddenlink will expire in April and May of this year (the date varies slightly for each jurisdiction; the County's franchise will expire on April 21, 2014) and will be replaced by video service franchises issued by the California Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act ("DIVCA"). The County and the six cities have codified local rights pursuant to DIVCA; for the County, this was done through Ordinance No. 2443, adopted by the Board on January 25, 2011, and found at Sections 855-1 *et seq.* of the County Code. In accordance with this Code, cable/video service providers granted franchises pursuant to DIVCA must provide certain PEG access channels, funding, and resources to the County.

The existing contract between the County, the six cities and Access Humboldt will expire on May 8, 2014. The County Administrative Officer and City Managers have met with the Executive Director of Access Humboldt to discuss and agree upon terms and conditions of a new contract, which is brought before your Board today. Staff recommends that Access Humboldt be the designated Access Management Operator to manage the PEG access channels, operate the Community Media Center, and continue to provide PEG access programming and services pursuant to the new agreement.

FINANCIAL IMPACT:

Approval of the new contract should have no impact on the County's finances. Access Humboldt receives payments directly from Suddenlink and engages in other fundraising activities to support its operations.

This action supports your Board's Strategic Framework, Priorities for New Initiatives, by partnering to promote quality services through both facilitating a public/private partnership and building interjurisdictional and regional cooperation.

OTHER AGENCY INVOLVEMENT:

Access Humboldt  
Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna and Rio Dell

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to enter into a new contract with Access Humboldt and seek to use resources provided to the County under a video service franchise to fund a different Access Management Operator.



This alternative is not recommended, as Access Humboldt has successfully performed these services for eight years and represents a significant ongoing partnership with local cities.

ATTACHMENTS:

1. Contract between the Cities of Arcata, Eureka, Blue Lake, Fortuna, Ferndale, Rio Dell and Humboldt County and Access Humboldt
2. Addendum – Nuclear Free Clause

CONTRACT BETWEEN THE CITIES OF ARCATA, EUREKA, BLUE LAKE, FORTUNA,  
FERNDALE, RIO DELL AND HUMBOLDT COUNTY  
AND  
ACCESS HUMBOLDT

**AGREEMENT**

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2014, by and between the Cities of Arcata, Eureka, Blue Lake, Fortuna, Ferndale, Rio Dell and Humboldt County (collectively the "Cities/County"), and Access Humboldt, a California nonprofit corporation, who agree as follows:

**RECITALS**

1. The Cities/County desire to provide support for the use of public, educational, and governmental ("PEG") access cable channels provided pursuant to federal law.
2. Each of the Cities/County granted an identical franchise to Cebridge Acquisition, L.P. d/b/a Suddenlink ("Cebridge") to operate a cable television system in the Cities/County (each referred to as a "Franchise Agreement," collectively as the "Franchise Agreements").
3. The Franchise Agreements indicate that the Cities/County shall designate a non-profit PEG Access Management Organization ("AMO") to operate and administer the public educational and governmental ("PEG") access channels, facilities, services and programming.
4. The Franchise Agreements provide that certain channel capacity and fiber links shall be provided for PEG access.
5. The Franchise Agreements provide that certain grant payments shall be made by the Franchisee for PEG access equipment, facilities, and services (hereafter "PEG Uses").
6. The Franchise Agreements provide that certain in-kind services shall be provided by the Franchisee to support PEG Uses.

7. The Franchise Agreements will expire in April/May 2014 (varies by City/County) and will be replaced by video service franchises issued by the California Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act ("DIVCA") of 2006. Pursuant to DIVCA upon the expiration of the Franchise Agreements, the Cities/County no longer have the authority to grant franchise agreements. The authority to grant Franchise Agreements is provided to the State of California Public Utilities Commission.
8. The Cities/County have codified their rights pursuant to DIVCA in the Cities/County Code. Pursuant to those rights, cable/video service providers granted franchises pursuant to DIVCA must provide certain PEG access channels, funding, and resources to the Cities/County.
9. Through a community based effort that included diverse stakeholders and best practice design, Access Humboldt was formed in 2006 to develop and provide PEG access services and to build sustainable community media and broadband access for Humboldt County and the region. By previous agreement Access Humboldt has provided PEG services since May 9, 2006.
10. The Cities/County have determined that they wish to provide continuing support for PEG access.
11. The Cities/County have designated Access Humboldt as the AMO to operate and manage PEG access and to be the recipient of those PEG access channels, funding, and resources.
12. Access Humboldt has agreed to serve the Cities/County by managing the Community Media Center and providing PEG access programming and services.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. In exchange for the resources provided by the Cities/County to Access Humboldt, pursuant to this Agreement, Access Humboldt shall provide the following services:



- A. *OPERATE PUBLIC ACCESS CABLE CHANNEL(S)*. Operate the public access cable channel(s) for public/community access programming purposes in a manner that is consistent with the principles set forth in the Franchise Agreements, with the primary purpose being to administer, coordinate, and assist those requesting access on a non-discriminatory basis.
- B. *OPERATE EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNELS*. Operate the educational and governmental access channel(s), with the primary purpose being to administer, coordinate, and assist the Cities/County and educational institutions requesting access on a non-discriminatory basis.
- C. *OPERATE A COMMUNITY ACCESS CENTER*. Manage a media production facility and equipment, available for public use at such hours and times as are determined by Access Humboldt. Access to equipment and facilities shall be open to all those who: (1) satisfactorily complete required training classes provided by Access Humboldt; or (2) receive certification from Access Humboldt, identifying said persons as having satisfied training requirements through other means.
- D. *PROVIDE NONDISCRIMINATORY ACCESS*. Provide access to the equipment, facilities, channels, and services provided hereunder on a non-discriminatory basis to all residents of the Cities/County for non-commercial programming purposes, whether individuals or organizations, pursuant to operating rules promulgated by ACCESS HUMBOLDT.
- E. *DEVELOP OPERATING POLICIES AND PROCEDURES*. Develop policies and procedures for use and operation of the PEG access equipment, facilities, and channels. The policies and procedures shall be filed with the Cities/County and shall be provided to any resident of the Cities/County who requests them.
- F. *COMPLIANCE WITH LAWS RULES, AND REGULATIONS*. Administer the PEG access channels and facilities in compliance with applicable laws, rules, regulations, and in compliance with the Franchise Agreements.

- G. *TRAINING*. Train residents of the Cities/County and, when requested, employees of the Cities/County and local school or college employees, in the techniques of media production, and provide technical advice in the execution of productions.
- H. *PLAYBACK/CABLECAST*. Provide for the playback/cablecasting of programs on the PEG access channels. Access Humboldt shall cablecast an average of at least 20 hours of programming per week.
- I. *MAINTENANCE OF EQUIPMENT*. Provide regular maintenance and repair of all equipment purchased with monies received pursuant to this Agreement and/or donated, loaned, or leased to Access Humboldt by the Cities/County.
- J. *SPECIAL NEEDS GROUPS*. Support special needs groups in program production through training and other means.
- K. *PROMOTION*. Actively promote the use and benefits of the PEG access channels and facilities to cable subscribers, the public, PEG access users, and the Franchisee.
- L. *PERFORMANCE REVIEW*. Access Humboldt, shall beginning in year two (2) and every four (4) years thereafter under this Agreement, contract with an entity from outside the Cities/County that is expert in PEG access matters to conduct a performance review of Access Humboldt's operations. This review shall include an opportunity for PEG access users and cable subscribers to provide input. Upon completion, a copy of the performance review shall be submitted to each of the Cities/County.
- M. *OTHER ACTIVITIES*. Undertake other PEG access programming activities and services as deemed appropriate by Access Humboldt and consistent with the obligation to facilitate and promote PEG access programming and provide non-discriminatory access.



SECTION 2. PUBLIC ACCESS CHANNELS OPEN TO PUBLIC. Access Humboldt agrees to keep the public access channel(s) open to all potential users regardless of their viewpoint, subject to FCC regulations and other relevant laws. None of the Cities/County, the Franchisee, nor Access Humboldt shall have the authority to control the content of programming placed on the public access channel(s) so long as such programming is lawful. Provided that, nothing herein shall prevent Access Humboldt, any of the Cities/County, or the Franchisee from producing or sponsoring programming, prevent any of the Cities/County or the Franchisee from underwriting programming, or prevent any of the Cities/County, Franchisee, or Access Humboldt from engaging in activities designed to promote production of certain types of programming or use by targeted groups as consistent with applicable law and rules for use of the channel(s). Access Humboldt may develop and enforce policies and procedures which are designed to promote local use of the channel(s) and make programming accessible to the viewing public, consistent with such time, place, and manner regulations as are appropriate to provide for and promote use of PEG access channels, equipment and facilities.

SECTION 3. INDEMNIFICATION. Access Humboldt shall indemnify, defend, and hold harmless each of the Cities/County, their officers, agents, and employees from and against any and all claims, suits, actions, causes of action, losses, damage, or liabilities of any kind, nature or description, including payment of litigation costs and attorneys' fees, brought by any person or persons for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, sustained by or accruing to any person or persons, howsoever the same may be caused, directly or indirectly arising or resulting from any alleged acts or omission of Access Humboldt, its officers, employees, agents or subcontractors arising out of or resulting from the performance of this Agreement.

Access Humboldt shall indemnify and hold harmless each of the Cities/County, their officers, agents, employees and volunteers from and against any and all claims or other injury, including costs of litigation and attorney's fees, arising from or in connection with claims or loss or damage to person or property arising out of the failure to comply with



any applicable laws, rules, regulations or other requirements of local, state or federal authorities, for claims of libel, slander, invasions of privacy, or infringement of common law or statutory copyright, for breach of contract or other injury or damage in law or at equity which claims, directly or indirectly, result from Access Humboldt's use of channels, funds, equipment, facilities or staff granted under this Agreement or franchise agreements between the Cities/County and Cebridge/Suddenlink.

Each of the Cities/County, respectively, shall indemnify, defend, and hold harmless Access Humboldt, its officers, agents and employees from and against any and all claims, losses, liabilities, or damage including payment of reasonable attorneys' fees arising out of or resulting from the performance of this Agreement, caused in whole or part by any act or omission of the respective City or County.

SECTION 4. COPYRIGHT CLEARANCE. Before cablecasting any program material, Access Humboldt shall require all users to agree in writing that they shall make all appropriate arrangements to obtain all rights to all material cablecast and clearances from broadcast stations, networks, sponsors, music licensing organizations' representatives, and without limitation from the foregoing, any and all other persons as may be necessary to transmit their program material over the PEG access channels that are operated and managed by Access Humboldt. Access Humboldt shall maintain for inspection by any of the Cities/County, upon reasonable notice by the Cities/County and for the term of the applicable statute of limitations, copies of all such user agreements.

SECTION 5. COPYRIGHT AND OWNERSHIP. Access Humboldt shall own the copyright of any programs, which it may choose from time to time to produce. Copyright of programming produced by other parties shall be held by the persons who produced said programming.

SECTION 6. DISTRIBUTION RIGHTS.

- A. Access Humboldt shall require that programs produced with funds, equipment, facilities, or staff granted under this Agreement shall be distributed on the channels whose use is authorized by this Agreement. This subparagraph shall not be interpreted to restrict other distribution (beyond distribution on channels authorized by this Agreement), so long as such other distribution is consistent with any pertinent guidelines established in the PEG access operating policies and procedures.
- B. At least twice each day that programming is cablecast on the PEG access channels whose use is authorized by this Agreement, Access Humboldt shall display a credit stating "Partial funding for the operation of this channel is provided by the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Humboldt County. Such credit shall also state that opinions expressed in PEG access programs are the sole responsibility of the program producers.

SECTION 7. EQUIPMENT AND FACILITIES.

- A. Access Humboldt shall be responsible for maintenance of all equipment and facilities owned, leased or loaned to it under this Agreement or purchased with funds provided pursuant to this Agreement.
- B. Access Humboldt shall own all equipment and facilities acquired by it and purchased with funds received pursuant to this Agreement, except that upon termination or non-renewal of this Agreement all equipment or facilities purchased with funds received pursuant to this Agreement shall become the property of the Cities/County (in a manner determined by the Cities/County), which shall ensure that all such equipment or facilities shall be used for PEG access purposes.

To secure all of its obligations under this Agreement, Access Humboldt hereby grants to each of the Cities/County a security interest in the assets and interests owned or hereafter acquired by Access Humboldt with funds



provided by the Cities/County, and the proceeds thereof, including but not limited to Access Humboldt deposit accounts, inventory, and all equipment and fixtures acquired with funds provided by the Cities/County. Access Humboldt agrees to take all steps reasonably requested by any of the Cities/County to perfect and enforce the security interest of the Cities/County, including the execution and processing of financing statements and continuation statements under the California Uniform Commercial Code. Access Humboldt will also notify any institution with whom it now or hereafter maintains any deposit account of the existence of a security interest by the Cities/County in the account.

The Cities/County agree to subordinate their interest if necessary to finance the purchase of equipment or property. The subordination shall only be with respect to the specific equipment or property that Access Humboldt might wish to finance.

- C. Upon the dissolution of Access Humboldt, it shall, subject to the approval of the Cities/County, transfer all assets of Access Humboldt representing equipment and facilities funded by the Cities/County, and/or the proceeds of either to the Cities/County, or at the option of the Cities/County, to such organization or organizations designated by the Cities/County to manage PEG access which shall at the time qualify as a tax exempt organization(s) under Section 501(c)(3) of the Internal Revenue Code (or the corresponding provisions of any superseding law).

SECTION 8. INSURANCE. Access Humboldt shall maintain in full force and effect at all times during the term of this Agreement insurance as required by this Section. The cost of such insurance shall be borne by Access Humboldt and may be included in its annual budget.

- A. *COMPREHENSIVE LIABILITY INSURANCE.* Comprehensive liability insurance, including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned

automobile coverage. The limits of such coverage shall be at a minimum: (1) bodily injury including death, \$2,000,000 for each person, each occurrence and aggregate; and (2) property damage, \$2,000,000 for each occurrence and aggregate.

- B. *EQUIPMENT INSURANCE.* Insurance shall be maintained on all equipment and facilities, including fixtures, funded in whole or in part under this Agreement to replacement cost. The insurance shall include, at a minimum insurance against loss or damage beyond the user's control, theft, fire or natural catastrophe. The Cities/County shall be shown as additional insured on all policies.
- C. *WORKERS' COMPENSATION.* Full Workers' Compensation Insurance and Employer's Liability with limits as required by California law with an insurance carrier satisfactory to the Cities/County. The worker's compensation policy is to contain, or be endorsed to contain the following provisions:
- (1.) A waiver of subrogation clause indicating the insurance company agrees to waive all right of subrogation against the Cities/County, their officers, officials, employees and volunteers for losses paid under the terms of this policy which arise from the work performed by the named insured for the Cities/County or from operations performed by the Named insured on Cities/County premises.
- D. *CABLECASTER'S ERRORS AND OMISSIONS INSURANCE.* Insurance shall be maintained to cover the content of productions which are cablecast on the PEG access channels in, at minimum, the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress, invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover individual PEG access producers.
- E. *CITIES/COUNTY AS CO-INSURED OR ADDITIONAL INSURED.* All Cities/County shall be named as co-insured or additional insured on all aforementioned insurance policies. The policies shall provide that no cancellation, major change in coverage or expiration may be affected by the



insurance company or Access Humboldt without first giving each of the Cities/County thirty (30) days written notice prior to the effective date of such cancellation or change in coverage. Any insurance or self-insurance maintained by the Cities/County, their officers, agents, employees, or volunteers shall be in excess of Access Humboldt's insurance and shall not contribute to it.

- F. *NOTIFICATION OF COVERAGE.* Access Humboldt shall annually file with the Cities/County proof of insurance coverage as follows: (1) Comprehensive Liability and Workers' Compensation; (2) equipment insurance; and (3) cablecaster's errors and omissions insurance

G. *OTHER INSURANCE REQUIREMENTS*

Cities/County or its authorized representative or agents shall have the right to require additional insurance, or high limits of insurance, at anytime during this Agreement should it be deemed necessary.

The general liability policy is to contain, or be endorsed to contain the following provisions:

- (1) Cities/County, their officers, officials, employees and volunteers are to be covered as additional insured's with respect to liability arising out of ownership, maintenance or use of that part of the area in use by Access Humboldt pursuant to this Agreement.
- (2) Access Humboldt insurance coverage shall be primary insurance as respects the Cities/County, their officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Cities/County, its officers, officials, employees or volunteers shall be excess of Access Humboldt's insurance and shall not contribute with it.

SECTION 9. NON-DISCRIMINATION IN EMPLOYMENT AND SERVICE. Access Humboldt shall comply with Title VII of the Civil Rights Act of 1964 and no person shall, on the grounds of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), military service, or any other classification protected by federal, state, or local laws and ordinances be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that Access Humboldt is an independent contractor and that no relationship of principal/agent or employer/employee exists between the Cities/County and Access Humboldt. If in the performance of this Agreement any third persons are employed by Access Humboldt, such persons shall be entirely and exclusively under the control, direction and supervision of Access Humboldt. All terms of employment, including hours, wages, employee benefits, working conditions, discipline, hiring and discharging or any other term of employment shall be determined by Access Humboldt and the Cities/County shall have no right or authority over such persons or terms of employment.

SECTION 11. ASSIGNMENT OR TRANSFER. Neither this Agreement nor any interest herein shall be assigned or transferred by Access Humboldt, except as expressly authorized in writing by the Cities/County.

SECTION 12. ANNUAL REPORTS. Prior to June 30 of each year, Access Humboldt shall submit to the Cities/County an annual report regarding its activities during the preceding fiscal year (January 1 - December 31). This report shall contain, at a minimum, the following information:

- A. Statistics on programming and services provided;
- B. Current and complete listing of Access Humboldt's Board of Directors; and



- C. Year-end financial statements reviewed by an independent certified public accountant.

SECTION 13. RECORDS, FISCAL AUDIT.

- A. Access Humboldt shall maintain all necessary books and records, in accordance with generally accepted accounting principles.
- B. Upon reasonable request from any of the Cities/County, Access Humboldt shall, at any time during normal business hours, make available all of its records with respect to all matters covered by this Agreement.
- C. Access Humboldt shall prepare (or have prepared) and submit to the Cities/County a fiscal audit by an independent certified public accountant, at least every three (3) years unless requested more frequently by Cities/County.

SECTION 14. PEG ACCESS FUNDING, CHANNELS, AND OTHER RESOURCES.

Pursuant to the following City and County Code citations, certain PEG access funds, channels, and resources are to be provided to the Cities/County by Cebridge/Suddenlink and any entity issued a State Video Franchise. The Cities/County do by this Agreement transfer those funds, channels, and resources as delineated in the Cities/County Code to Access Humboldt for the purposes described in this Agreement including:

- A. *PEG CHANNEL CAPACITY.* "A state franchise holder shall designate a sufficient amount of capacity on its network to allow the provision of four (4) PEG channels."
- B. *PEG SUPPORT.* "Any state franchise holder shall pay to the [Cities/County] - or if directed by the [Cities/County], to the [Cities/County] designated PEG provider -- a PEG fee equal to three percent (3%) of gross revenues."
- C. *PEG CARRIAGE AND INTERCONNECTION.* "PEG Channels are receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than that

needed to receive the lowest cost tier of service." . . . "Each state franchise holder and incumbent cable operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection."

The Cities/County codes referenced are:

Humboldt County Code Title VIII Chapter 5 (Pages 45-54)

Eureka City Code Title XI Chapter 114 Sections 11.63

Fortuna City Code Title 14 Chapter 14.18

Arcata City Code Title VI Chapter 4 Article 5

Ferndale City Code Ordinance Chapter 5

Rio Dell City Code Chapter 5 Article V (pg. 23-27)

Blue Lake Ordinance 497 Chapter 5

SECTION 15. ANNUAL PLAN AND BUDGET. On or before December 31 of each year in which this Agreement is in effect, Access Humboldt shall provide to the Cities/County an "Annual Plan and Budget" outlining activities and programs planned for the following fiscal year with funds and other resources provided by the Cities/County. Such plan shall contain:

- A. A statement of the anticipated number of hours of PEG access programming to be cablecast;
- B.. Training classes to be offered and frequency of classes;
- C. Other PEG access activities planned by Access Humboldt; and
- D. A detailed operating and capital equipment and facilities budget.

SECTION 16. EXPENDITURE OF FUNDS. Access Humboldt shall spend funds received from the Cities/County for the purposes listed in its Annual Plan and Budget and Section 1 ("Scope of Services") of this Agreement. Funds not expended in the year covered by the Annual Plan and Budget may be carried over by Access Humboldt into succeeding years. Upon termination of this Agreement all funds of any kind received from the Cities/County and not expended by Access Humboldt shall be



returned to the Cities/County, in proportion to the amounts previously provided by the Cities/County. All such returned funds shall be used by the Cities/County for PEG access purposes. Access Humboldt shall provide for such fiscal control and accounting procedures as are necessary to assure proper disbursement and accounting for funds received from the Cities/County.

SECTION 17. RECEIPT OF APPROVED FUNDING. The Cities/County codes require holders of state issued video franchises to pay to the Cities/County certain funds for PEG Support (see Cities/County code citations in Section 14). For each year in which ACCESS HUMBOLDT has submitted the Annual Plan and Budget to the Cities/County as required under Section 15 of this Agreement, the Cities/County shall direct all state video franchise holders to make quarterly payments to Access Humboldt. Those payments shall be made on or before February 15, May 15, August 15, and November 15.

SECTION 18. FUNDING FROM OTHER SOURCES. Access Humboldt may, during the course of this Agreement, receive supplemental funds from other sources, including but not limited to fundraising activities.

SECTION 19. TERM OF AGREEMENT. This Agreement supersedes the previous agreement for PEG services (dated May 9, 2006) and shall be for a period of five (5) years, with a five (5) year renewal provision, commencing May 9, 2014 and ending May 9, 2019, unless terminated earlier, as provided for in this Agreement.

SECTION 20. TERMINATION OF AGREEMENT: TRANSFER OF ASSETS.

- A. The Cities/County shall have the right upon one hundred twenty (120) days written notice to Access Humboldt to terminate this Agreement for:
- (1.) Material breach of any provision of this Agreement by Access Humboldt;
  - (2.) Malfeasance, misfeasance, misappropriation of funds; or
  - (3.) Loss of 501(c) (3) status by Access Humboldt or revocation or suspension of its Articles of Incorporation by the State of California.

- B. Access Humboldt may avoid termination by curing any such breach to the satisfaction of the Cities/County within one hundred twenty (120) days of notification or within a time frame agreed to by the Cities/County and Access Humboldt. The Cities/County may also terminate this Agreement at the expiration of its term, or any extension thereof.
- C. Upon termination of this Agreement, Access Humboldt shall immediately transfer to the Cities/County all equipment, real property, fixtures, contracts, leases, deposit accounts or other assets received by or purchased by Access Humboldt with funds received pursuant to this Agreement. All such transferred items shall be used by the Cities/County for PEG access purposes.

SECTION 21. EXTENSION OF AGREEMENT. This Agreement may be renewed or extended for additional periods of not less than five (5) years each, pursuant to the following process:

- A. If Access Humboldt seeks an extension it shall submit a letter of request to each of the Cities/County at least one hundred twenty (120) days prior to the expiration of this Agreement.
- B. The City Managers/County CAO shall jointly respond to Access Humboldt's letter of request for an extension of the Agreement within thirty (30) days of the date of said letter. If the Cities/County intends to refuse to extend the Agreement, they shall explain the reasons for this decision in their response to Access Humboldt. The Cities/County may not refuse to extend the contract based upon a failure of Access Humboldt to comply with the terms of this Agreement unless the Cities/County have provided Access Humboldt a notice of its failure to comply with the terms and the opportunity to cure said noncompliance.



SECTION 22. TIME. Time is of the essence in this Agreement and for the performance of all covenants and conditions of this Agreement.

SECTION 23. COOPERATION. Each party agrees to execute all documents and do all things necessary and appropriate to carry out the provisions of this Agreement.

SECTION 24. APPLICABLE LAW. This Agreement shall be interpreted and enforced under the laws of the State of California.

SECTION 25. NOTICES. Wherever this Agreement requires notice to be given to or a filing to be made with the Cities/County, such notice or filing shall be given to or made with each City and the County. All notices and other communications to be given by either party may be given in writing, depositing the same in the United States mail, postage prepaid and addressed to the appropriate party as follows:

To the Cities and County:

City Managers of Arcata, Blue Lake, Eureka, Fortuna, Ferndale, Rio Dell

City Manager  
City of Arcata  
736 F Street  
Arcata, CA. 95521

City Manager  
City of Ferndale  
834 Main Street/PO Box 1095  
Ferndale, CA. 95536

City Manager  
City of Blue Lake  
P.O .Box 458  
Blue Lake, CA. 95525

City Manager  
City of Rio Dell  
675 Wildwood Avenue  
Rio Dell, CA. 95562

City Manager  
City of Eureka  
531 K Street  
Eureka, CA. 95501

City Manager  
City of Fortuna  
621 11th Street  
Fortuna, CA. 95540

Humboldt County Administrative Officer

County Administrative Officer  
County of Humboldt  
825 5<sup>th</sup> St  
Eureka, CA. 95501

To Access Humboldt  
Executive Director  
P.O Box 157  
Eureka, CA 95502

Any party may change its address by written notice to the other parties at any time.

SECTION 26. ENTIRE AGREEMENT. This Agreement is the entire agreement of the parties and supersedes all prior negotiations and agreements whether written or oral. This Agreement may be amended only by written agreement and no purported oral amendment to this Agreement shall be valid.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**CITIES AND COUNTY**

**Access Humboldt, a California  
nonprofit corporation**

\_\_\_\_\_  
City of Arcata/Name

\_\_\_\_\_  
Chairperson, Board of Directors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
City of Blue Lake/Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
City of Eureka/Name

\_\_\_\_\_  
Date

*Signatures continued on next page*



Attachment 1

\_\_\_\_\_  
City of Ferndale/Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
City of Fortuna/Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
City of Rio Dell/Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Humboldt County/Name

\_\_\_\_\_  
Date

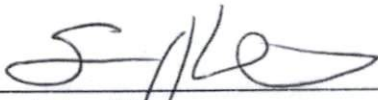
Addendum to Contract Between the cities of Arcata, Eureka, Blue Lake, Fortuna,  
Ferndale, Rio Dell and Humboldt County and Access Humboldt.

The Contract is attached and part of this agreement.

NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE

ACCESS HUMBOLDT certifies by its signature below that ACCESS HUMBOLDT is not a Nuclear Weapons Contractor, in that ACCESS HUMBOLDT is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. ACCESS HUMBOLDT agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if ACCESS HUMBOLDT becomes a nuclear weapons contractor.

Access Humboldt, a California nonprofit corporation



Sean McLaughlin  
Executive Director  
P.O. Box 157  
Eureka, CA 95502

March 30, 2014

Date