

RESOLUTION APPROVING OPERATIONS AGREEMENT BETWEEN THE CITY
OF MARSHALLTOWN, IOWA VALLEY COMMUNITY COLLEGE DISTRICT
AND MTN BROADCASTING, INC.

WHEREAS, the City of Marshalltown has benefited by the operation of a local Government/Education television channel; and

WHEREAS, an agreement has been reached between the parties referred to above as to a revision of their Agreement previously approved by the City Council on April 13, 1998 for purposes of continued operation of the local Government/Education channel including duties and obligations thereto.

THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, AS FOLLOWS:

Section 1. The attached revised Agreement, with attachments, between the City of Marshalltown, MTN Broadcasting, Inc., and IVVCD is hereby approved and ratified by the Council of the City of Marshalltown, Iowa.

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute said revised Agreement on behalf of the City of Marshalltown.

Section 3. This revised Agreement shall be in full force and effect from and after its signature by all parties as required.

Passed this 13 day of July, 1998, and signed this 16 day of July, 1998.

CITY OF MARSHALLTOWN



Floyd P. Harthun, Mayor

ATTEST:



Mary Skartvedt, City Clerk

Received
8-27-98

FINAL-7-8-98

AN AGREEMENT

This Agreement is in reference to the Cable Television Franchise Renewal Granted to Heritage Cablevision Inc., d/b/a TCI of Central Iowa.

This Agreement is between the City of Marshalltown, Iowa (City), MTN BROADCASTING, INC. operating as KDAO and Iowa Valley Community College District (IVCCD) for the purpose of outlining the working relationship between them for the operation of the Government/Education channel on TCI Cablevision.

BACKGROUND

The City currently enjoys the use of one local educational and governmental channel, Channel 12 in accordance with the existing Cable TV Ordinance Section 8-4.4 (see Attachment A). IVCCD Continuing Education operates this channel from its site on South Center Street in Marshalltown. However, due to lack of funding, personnel and equipment, it shares air time with CSPAN. This has proven unsatisfactory to cable subscribers who prefer one program or the other, not both. The City proposes to use a portion (1% of the 5% franchise fee collected) of the funds it receives from franchise fees, approximately \$17,000 per year, for the purpose of assisting with the operation of this channel, new and replacement equipment and for programming. This would be known locally as the Cable TV Operations Fund. A glance at other comparably-sized cities shows that Marshalltown's only part-time educational-governmental channel offers far less than those received in other places. Local cable providers often help cities launch their local access channels. TCI recognizes this and agrees to provide Marshalltown with equipment needed to improve the local educational/governmental channel, according to the terms of this Agreement.

In the past, one of the greatest limitations in operating a successful local channel was the fact that it takes trained people to produce this programming. Since Marshalltown Community IVCCD has recently started a broadcasting program, students are being trained in TV Production and would be available to produce such programming. In addition KDAO has provided programming service to the City for various public broadcasts without charge as part of its community service effort. These KDAO programs have been very helpful to the City but, were limited by lack of personnel, equipment and funding to provide sufficient coverage of events.

CITY/IVCCD/ KDAO AGREEMENT The City plans to enter into an agreement with the IVCCD and KDAO to work jointly on the operation and oversight of the local Government/Education channel. The aim is to serve the community better by offering coverage of local events, providing access to more government meetings and to better inform and educate the public about issues facing Marshalltown and surrounding communities. The "Operations Funds" collected from the franchise fees will be set aside from other revenues by the City

specifically for the purpose of operating the government/educational channel, to repair or replace equipment, for production personnel time and to develop programming.

EQUIPMENT

TWO MODULATORS As indicated in Section 7C, System Design, Cable Television Franchise Renewal, TCI agrees to provide the City with two modulators, said equipment required to provide live broadcast capability at two additional sites in the City (Fisher Community Center and Marshalltown High School Auditorium). Those two modulators will be provided to the City who will determine their final distribution. This equipment may be used by any of the parties to this agreement or other entities approved by the City.

ADDITIONAL EQUIPMENT TCI has agreed to provide equipment or matching funds equivalent to \$20,000 for equipment as listed below within 24 months of the signing of the Cable Television Franchise Renewal Agreement - Ordinance No. 14587 (see Attachment B). IVCCD also agrees to provide a \$20,000 matching grant for equipment purchases. This grant may include "in-kind" match not to exceed \$5000 or 25%. This list is an example of potential equipment needs and may change depending upon actual needs, availability of TCI funds, and IVCCD matching funds.

<u>DESCRIPTION</u>	<u>PER UNIT</u>	<u>TOTALS</u>
2- TV Studio Cameras	\$ 8,230.	\$ 16,460.
2- Fluid Head Tripods	7,000.	14,000.
2- Lavalier Microphones	250.	500.
3- Color Program Monitor	700.	700.
1- Studio Teleprompter	2,500.	2,500.
1- Intercom system	1,500.	1,500.
2- Modulators (as in above paragraph)	2,000.	4,000.

TOTAL COST = \$39,660.00

PROPOSED USES OF EQUIPMENT With the proposed equipment for the Educational/Government Channel 12, the community of Marshalltown will be able to view more local programming. This would allow the city to better inform the community about important issues like law enforcement, fire safety, local elections, school issues, library, parks and recreation just to name a few of the topics that could be addressed in a local television talk show. Cable subscribers would be offered quality local programming and would be well-informed about community issues. The equipment that is purchased for this system through funds provided to the City by TCI will be shared with IVCCD. The use of the equipment will be managed by IVCCD.

Currently, city council meetings and a few local programs produced by Iowa Valley Continuing Education are the only local programs that can be viewed by cable subscribers. With the addition of the proposed equipment, Channel 12 would be able to air weekly programs informing the public about various events, activities, and issues facing the City of Marshalltown. In addition,

occasional local sporting events, concerts, and other entertainment type programs could be aired as well.

OPERATIONS PLAN

ADVISORY BOARD An advisory board may be established by the City of Marshalltown to oversee the operations and programming of the Government/Educational Channel. The name of this group would be the Cable TV Advisory Board. This board will be composed of four (4) members and a Chair person selected by the City of Marshalltown Mayor and four (4) members selected by the IVCCD. All members must be approved by the City Council of Marshalltown. The System Manager of the Government/Education channel and the City Administrator would be designated as staff liaisons to the Advisory Board for the purposes of assisting in setting up meetings, keeping minutes and performing other functions as requested. The Advisory Board will be responsible for making recommendations to the City, KDAO and IVCCD in the matters of operations, budgeting and programming. The System Manager and City Administrator will be responsible for development of an annual budget that will be submitted to the City. The salary of the System Manager may be included in the "in kind" maximum contribution allocation of up to \$5,000.

The purpose of this Advisory Board will be to oversee public programming, review and approve/disapprove special projects or requests from the public to be shown on the channel, to develop and approve of an annual budget that is to be submitted to the City for the operations of the system.

SYSTEM MANAGER The IVCCD President, or designee, will appoint a Manager of the system. The Manager will supervise the programming, use of equipment, supervise personnel and assist the public with information on the operation of the system. Most of the equipment purchased for the operation of this channel is expected to be housed at IVCCD except for those items which are assigned to the City for televising public meetings. Should the IVCCD decide not to appoint a manager of the Government/Educational channel, then the City shall appoint a System Manager. This agreement does not provide a means to pay the System Manager because that person on the IVCCD staff is already performing these same basic activities. Should the activity level of the System Manager change then the Advisory Board could make recommendations for adjustment of this agreement accordingly.

FISCAL AGENT The City of Marshalltown will be the fiscal agent for the Government/Education channel operations. Each participant in this agreement will maintain a list of equipment it has received and provide insurance coverage of this equipment. Employees may be retained by any of the parties to this agreement and each party is responsible for pay, benefits and related costs. These expenditures for operations will be reimbursed by the fiscal agent as approved.

APPROVAL AND ACCEPTANCE

This Letter of Agreement was approved by the City Council of Marshalltown, Iowa, on July 14, 1998.

City of Marshalltown

Floyd P. Harthun
Floyd P. Harthun, Mayor

Witness:

Mary Skartvedt
Mary Skartvedt, City Clerk

This Letter of Agreement was approved by the Iowa Valley Community College District on August 19, 1998.

IVCCD

Beryl Wellborn
Beryl Wellborn, Chairman
IVCCD Board of Directors

Witness:

Barbara Janning

This Letter of Agreement was approved by the MTN Broadcasting operating as KDAO on July 27, 1998, 1998.

MTN Broadcasting

Mark K. Osmundson
Mark K. Osmundson

Witness:

Handa R. Judge

Cable TV Ordinance: Sec.8-4.4 EDUCATION AND GOVERNMENT CHANNELS.

During the term of the franchise, the Grantee (Heritage Cablevision, Inc., d/b/a TCI of Central Iowa) shall provide at least one (1) specially dedicated, non-commercial education and government channel to be made available to the public, groups, and individuals on a first-come, non-discriminatory basis. Such channels shall be operated in accord with FCC rules and regulations. The Grantee shall make no charge for use of such channel. The Franchising Authority or its designee shall exercise sole control over the operation and shall establish rules providing for access to the education and government channel.

Sec. 8 4.5 ACCESS EQUIPMENT AND FACILITIES FEES

~~If authorized by the Grantor, and after sixty (60) days notice from the Grantor to the Grantee, the Grantor shall provide ongoing support for public, educational, and governmental access equipment and facilities in the amount of not to exceed twenty five cents (\$.25), as adjusted for inflation, per subscriber per month for the entire term of this Franchise payable in the same manner as the franchise fee payment pursuant to Section 8-5.1 hereof. The maximum amount of this fee shall be adjusted on March 30th of each year of the term of the franchise by a percentage equal to the percentage of increase in the cost of living as defined by the Consumer Price Index (CPI) for the previous calendar year. The Grantor acknowledges that this amount shall not be considered gross revenues subject to the payment of franchise fees pursuant to Sec. 8-5.1 hereof. Furthermore, payments of this ongoing support shall not be deemed to be "franchise fees" within the meaning of Section 622 of the Cable Act and such payment shall not be deemed to be "payments in kind" or any involuntary payments chargeable against the compensation to be paid to the Grantor by Grantee pursuant to Sec. 8-5.1 hereof. The Grantee shall be allowed to collect such fee as a pass through to cable subscribers.~~

This section is not applicable 1

Sec. 8-4.6 LEASED ACCESS CHANNELS

The Grantee shall make a portion of the remaining unused channels available for lease to any organization, group, or individual on a first-come, first-served basis as provided in this Ordinance and as required by Section 612 of the Cable Act of 1992, as amended.

Franchise Agreement: Appendix D

Capital Equipment Grant

Grantee shall convey to the Grantor (The City of Marshalltown) title to any video production equipment requested by the Grantor, including any specific brand or model thereof, pursuant to the following guidelines:

1. The value of said video production equipment shall equal to the total amount of other grants or cash gifts made to the Grantor or Iowa Valley Community IVCCD District by entities or persons other than the Grantee, but not to exceed \$20,000.00, for the purchase of video production equipment.
2. When the Grantor has completed both of the following acts, the Grantee shall immediately thereafter order and purchase for the Grantor, and immediately tender to the Grantor after disbursement by the seller{s}, the video production equipment requested by the Grantor, including any specific brand or model thereof, if so done prior to August 1, 1998:
 - a} Provides the Grantee with a written list of the video production equipment it desires from the Grantee, including any specific brand or model thereof; and
 - b} Provides the Grantee with documentation indicating the total amount of other grants or cash gifts made to it or Iowa Valley Community IVCCD District by entities or persons other than the Grantee for the purchase of video production equipment.
3. If the Grantor completes the aforesaid acts on or after August 1, 1998, the Grantee shall tender to the Grantor the video production equipment requested by the Grantor no later than eighteen (18) months subsequent to the completion by the Grantor of the aforesaid acts.
4. Grantee shall furnish the Grantor with receipts received by the Grantee from the sellers for all the items of video production equipment tendered by the Grantee to the Grantor.

Operating Assistance

Grantee shall provide the Grantor and Iowa Valley Community IVCCD District with assistance in the operating of any cable related activities within its expertise.