

**CLARK COUNTY
STAFF REPORT**

DEPARTMENT: City/County Cable Television Office

DATE: December 17, 2013

REQUEST: AWARD OF GRANT FUNDS FROM THE PEG CAPITAL SUPPORT FUND TO TV ETC, CVTV AND FVTV

CHECK ONE: Consent Routine

BACKGROUND: The current franchise agreements between Clark County, the City of Vancouver, and Comcast Corporation provide for a capital contribution in the amount of \$1/month per subscriber for support of Public, Education, and Government (PEG) access and monthly transport costs for public I-NET users. This contribution may only be awarded to designated access providers and public I-NET users.

The Vancouver Educational Telecommunications Consortium (TV ETC), the Designated Access Provider for Education, Clark/Vancouver Television ("CVTV") the Designated Access Provider for Government and Fort Vancouver Community Television ("FVTV"), the Designated Access Provider for Public each submitted grant applications for PEG capital support funds under the criteria and requirements established by the City/County Telecommunications Commission ("Commission"). In total, eight proposals were received totaling \$761,047. Estimated funds available for distribution in 2013 are approximately \$490,000. The grant applications were reviewed by outside technical experts and the PEG Committee, a subcommittee of the Commission.

The Telecommunications Commission through Resolution 2013-010 (attached) recommends that the Clark County Board of Commissioners award \$310,851 to TV ETC and \$140,930 to CVTV for purchase of certain capital expenditures. The funds, totaling \$451,781, will be used to purchase video broadcast equipment for the Battle Ground School District and equipment that will allow the Evergreen School District, Vancouver School District and CVTV to record and broadcast in high-definition. Access to high definition channels was included in the franchise agreement with Comcast that was approved in June 2013.

ACTION REQUESTED: On December 17, 2013, adopt a resolution under the terms of the interlocal agreement between Clark County and the City of Vancouver, awarding PEG Capital Support Funds of \$310,851 to TV ETC and \$140,930 to CVTV. (Note: Under the terms of the Interlocal agreement between the County and the City, both the Board and Council must approve the grants for funds to be awarded.)



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OK
12/17/13

POLICY/BUDGET IMPLICATIONS: Monies have been separately appropriated for funding these capital projects.

COMMUNITY OUTREACH: The City/County Telecommunications Commission held a public hearing, on December 4, 2013 regarding the grant requests.

Attachments: Board Resolution plus attachments

DISTRIBUTION:

Christine Cook, Prosecuting Attorney's Office

Jeanette Bader
Program & Policy Development Manager

Approved

**CLARK COUNTY BOARD OF
COMMISSIONERS**

Dec 17, 2013 SR 262-13

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12-17-13

RESOLUTION NO. 2013 - 12-17

A RESOLUTION relating to cable television and to the award of Public, Educational and Governmental ("PEG") capital contribution funds to TV ETC and Clark/Vancouver Television ("CVTV") respectively, the designated educational, and government access providers for the City of Vancouver and Clark County for certain capital expenditures.

WHEREAS, the PEG Capital Support Fund, established by Ordinance 1999-10-15 has funds available and appropriated for the purpose of financing PEG capital purchases by designated access providers; and

WHEREAS, the Vancouver/Clark County Telecommunications Commission ("Commission") by Resolution 1999-03 adopted criteria for the award and administration of PEG capital grants; and

WHEREAS, after review of applications for PEG capital grant awards from FVTV, TV ETC and CVTV the Commission recommended in Resolution 2013-010 to the Vancouver City Council and the Clark County Board of Commissioners an award from the PEG Capital Support Fund of \$310,851 to TV ETC and \$140,930 to CVTV for purchase of certain capital expenditures; and

1 WHEREAS, Clark County and the City of Vancouver have entered into an
2 interlocal agreement whereby all grants will require approval by both the Clark County
3 Board of Commissioners and the City Council; and

4 NOW, THEREFORE,

5 BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY
6 COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS
7 FOLLOWS:

8 Section 1. As recommended in SR _____ and in the City/County
9 Telecommunications Commission Resolution 2013-010, attached hereto as Exhibit "A",
10 TV ETC and CVTV are hereby awarded grants to be paid from funds appropriated by
11 Ordinance 1999-10-15 from the PEG Capital Support Fund for the capital purchases
12 described as follows

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$310,851	\$310,851
CVTV	\$140,930	\$140,930
FVTV	\$309,266	\$0

13
14 Section 2. Award of the grants described in Section 1 is conditioned upon:

- 15 (a) Approval of such grants by the City Council; and
16 (b) Compliance by TV ETC and CVTV with the PEG grant guidelines
17 and criteria set forth in Vancouver/Clark County
18 Telecommunications Commission Resolution 1999-03.

1 Section 3. The County Administrator is authorized to execute all necessary
2 agreements with TV ETC and FVTV consistent with Vancouver/Clark County
3 Telecommunications Commission Resolution 1999-03, to assure compliance with the
4 terms of the grant.

5 ADOPTED on this 17th day of December, 2013.

6
7 Attest:

BOARD OF CLARK COUNTY
COMMISSIONERS

8
9
10
11 Jura Redline
12 Clerk to the Board
13 Deputy

By: 
Steve Stuart, Chair

14
15 Approved as to form only
16 Anthony F. Golik
17 Prosecuting Attorney:

By: _____
David Madore, Commissioner

18 Christine Cook
19 Christine Cook
20 Deputy Prosecuting Attorney
21
22
23

By: _____
Tom Mielke, Commissioner

24 Attachments:

25
26 Exhibit "A" – Telecommunications Commission Resolution 2013-010

City/County Telecommunications Commission

RESOLUTION 2013 – 010

Regarding Recommendations to Award PEG Capital Support Funds to Designated Access Providers TV ETC and CVTV

Section 1. Findings

- 1.1 Under the terms of the cable television franchise agreements between the City of Vancouver (“City”), Clark County (“County”) and Comcast of Washington V, LLC (“Comcast”) adopted June 2013, funding is available to support Public, Educational and Governmental (“PEG”) Access capital costs or monthly transport costs by public users related to the Institutional Network (“iNET”).
- 1.2 As stated in Section 9.9 “Support for Access Capital Costs” of the franchise, “During the term of this Agreement, Grantee (Comcast) shall provide for a maximum of one dollar (\$1.00) per month, per Residential Subscriber (the “Capital Contribution”) for Public, Educational and Governmental (“PEG”) Access capital.
- 1.3 The City/County Telecommunications Commission (“Commission”) is authorized under Section 5.19.300 of the Vancouver Municipal Code and under Clark County Code 36.12.160 to administer Ordinances and any Franchise granted pursuant to the implementation of Franchise compliance procedures.
- 1.4 The Commission’s authorized duties, pursuant to the codes mentioned in Section 1.3 of this Resolution, include “To have primary responsibility for advising the City and County regarding public, educational and governmental access programming including the development of processes for the selection of designated access providers, and for evaluating their performance, for assigning and designating access channels, for allocating access funds and for making written reports and recommendations to the City Council [or Board of County Commissioners] thereon.”
- 1.5 The Commission is further charged by the ordinances to work with any and all grantees, designated access providers and the public to encourage maximum feasible use of access channels by institutions, groups, and individuals in the community and to promote, in cooperation with cable franchise grantees, designated access providers and others, local programming for the community.
- 1.6 The Commission Chair appointed a subcommittee of the Commission to review applications from Designated Access Providers and present recommendations to the Commission, which if approved by the Commission, are forwarded to the Vancouver City Council and the Clark County Board of Commissioners for review and appropriate action.

- 1.7 The Vancouver Educational Telecommunications Consortium (“TV ETC”), the Designated Access Provider for Education, Fort Vancouver Community Television (“FVTV”), the Designated Access Provider for Public and Clark/Vancouver Television (“CVTV”), the Designated Access Provider for Government each submitted applications to the Commission for PEG Capital Support Fund consideration.
- 1.8 Grant applications were reviewed by the PEG Committee in concert with outside experts who reviewed the applications from a technical perspective. The PEG Committee also met with each designated access provider on October 28, 2013.
- 1.9 The Committee presented their recommendations and findings to the Commission in the **Recommendations Regarding the Award of PEG Capital Support Funds** (Exhibit A.) Estimated funds available for distribution in 2013 are approximately \$490,000. The Commission reviewed and approved the recommendations and findings of the PEG Committee as outlined in the report.

NOW, THEREFORE BE IT RESOLVED:

Section 2.

- 2.1 The Commission recommends, barring any substantial issues raised by the City and County governing boards, and upon signing the required PEG Capital Grant agreements, that TV ETC, FVTV and CVTV be awarded PEG Capital Support Funds as follows:

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$310,851	\$310,851
CVTV	\$140,930	\$140,930
FVTV	\$309,266	\$0
Total PEG Access Capital Grant Funds	\$761,047	\$451,781

The City/County Telecommunications Commission, through this Resolution, adopts the findings and recommendations contained herein and as outlined in Exhibit A: **Recommendations Regarding the 2013 Award of PEG Capital Support Funds**



P.O. Box 1995 • Vancouver, Washington 98668
(360) 487-8702 • Fax (360) 487-8719

Serving the Citizens of Vancouver and Clark County Since 1982

TO: CITY/COUNTY TELECOMMUNICATIONS COMMISSION

FROM: PEG COMMITTEE
Robert Coletti, Chair
John Barber
John Jenkins

DATE: December 4, 2013

SUBJECT: Recommendations for the 2013 PEG Capital Support Grants

Purpose of the PEG Capital Grant Program:

The purpose of the PEG Capital Support Fund, established under the 1997 cable franchise agreement and funded by a \$1 per month per cable subscriber contribution collected by the cable operator, Comcast, is to promote the use and availability of local programming by providing capital support for equipment and facilities for use by the public, education, and local government for the benefit of Vancouver/Clark County cable television subscribers. Funds may also be used for costs related to the use of the Institutional Network (iNET) as provided in the franchise agreement.

From February 1998, when collection of the \$1/month/per subscriber was implemented, through September 30, 2013 Comcast has collected \$11,806,266 in PEG fees from subscribers which have been paid to the City of Vancouver and Clark County. \$12,140,006 has been awarded to designated access and iNET providers. (The difference between the amounts collected vs. the amount awarded is interest earned.)

Grant Proposal Evaluation:

Grant proposals for the current round of funding were due by October 4, 2013. Eight proposals were received totaling \$761,047 in requests: one (1) from CVTV, one (1) from FVTV and seven (7) from TV ETC. Estimated funds available for distribution are approximately \$490,000.

Grant applications were reviewed by the PEG Committee in concert with outside experts who reviewed the applications from a technical perspective. The PEG Committee also met with each of the applicants to review the proposals.

2013 Funding for FVTV

Based on the Telecommunications Commission's recommendations, the Vancouver City Council and Clark County Board of Commissioners awarded PEG grants to FVTV of \$154,692 in 2011 and \$116,102 in 2012. The PEG grant agreement requires FVTV to submit copies of receipts for all PEG funds expended and also requires that Washington State sales tax be paid on all purchases.

As of November 20, 2013, FVTV had submitted partial receipts for the 2011 grant totaling \$135,566. However there is still \$7,403 unaccounted for and FVTV currently owes \$11,112 in Washington State sales tax (see attached letters). 2012 PEG grant funds will not be released to FVTV until the 2011 grant is completed. With the 2011 grant incomplete and the 2012 PEG funds yet to be accessed, the PEG Committee is recommending that no funding be awarded to FVTV for 2013. Presuming they are re-designated as the public access provider in 2014, FVTV will be able to apply for another PEG capital grant in the fall of 2014.

PEG Capital Grant Program- Recommended Projects for 2013

The franchise agreement with Comcast approved in 2013 included three (3) high-definition (HD) channels for designated PEG access providers. The Vancouver City Council and Clark County Board of Commissioners allocated one channel to each of the three designated providers. Many of the PEG grant requests for 2013 focused on equipment necessary to film and broadcast in HD.

The PEG Committee is recommending the following funding for approval by the Telecommunications Commission:

Grant Applications *	Requested	Recommended
HD Encoder for Playback (TV ETC/ESD 112)	\$22,081	\$22,081
Live Event Broadcasting (Battle Ground School District)	\$19,287	\$19,287
HD Integrated Video Switch (Evergreen School District)	\$29,851	\$29,851
HD Mobile Camera System (Evergreen School District)	\$107,062	\$107,062
HD Conversion (Vancouver School District)	\$25,585	\$25,585
Fort Sports HD Conversion (Vancouver School District)	\$91,532	\$91,532
Fort Vancouver High School HD Update (Vancouver SD)	\$15,453	\$15,453
Remote Production Unit (CVTV)	\$140,930	\$140,930
Studio Integration (FVTV)	\$309,266	\$0
Total PEG Access Capital Grant Funds	\$761,047	\$451,781

Applicant	Total Amount Requested	Total Amount Funded
TV ETC	\$310,851	\$310,851
CVTV	\$140,930	\$140,930
FVTV	\$309,266	\$0
Total PEG Capital Grant Funds	\$761,047	\$451,781

Attachments: Evaluation Criteria

*PEG Grant Applications are available on file at the City/County Cable Television Office.



City of Vancouver • P.O. Box 1995 • Vancouver, WA 98668-1995
www.cityofvancouver.us

October 7, 2013

James Omelina
Fort Vancouver Television
1701 Broadway, #216
Vancouver, WA 98663

Dear Mr. Omelina:

The City of Vancouver has a number of concerns about Fort Vancouver Television's (FVTV) management of your 2011 PEG capital grant. The Vancouver City Council and Clark County Board of Commissioners awarded \$154,692 in PEG grant funds to FVTV in December 2011. Per the grant agreement, based on the equipment estimates you provided, \$142,969 was disbursed to you in March 2012.

On September 24, 2013 I received from you via e-mail copies of four (4) documents presumably submitted as proof of the equipment purchased for the 2011 grants with a note that said "All the equipment is accounted for and in our inventory system". Those documents were from "MacPac; Apple Specialists" and there were several concerns about them including no invoice numbers (previous FVTV invoices from MacPac had invoice numbers), a total cost on each invoice but no itemization of the cost of the individual pieces of equipment (as there was on previous MacPac invoices) and no indication that Washington State sales tax had been paid. The documents totaled \$144,528.

Based on our concerns, the City's Internal Auditor contacted MacPac for additional information. MacPac clarified that the documents you submitted were actually copies of estimates, not invoices as required by the grant agreement. MacPac provided an itemized list, with costs, of the equipment from these estimates that FVTV had purchased. The total cost of purchase was \$126,447 – not the \$144,528 that you submitted as proof of equipment purchase.

FVTV's grant agreement with the City requires you to submit verification of the equipment purchased and specifies that documentation should include paid invoices or packing slips for each item purchased. The verification you provided was an estimate of the equipment you were proposing to purchase, not actual invoices and there is a discrepancy of \$18,081 between what you claimed to have purchased and what was actually purchased.

Another provision of the grant agreement requires that Washington State sales tax is paid on all purchases. MacPac verified that Washington State sales tax was not included as part of these equipment purchases.

The grant agreement also requires that unexpended PEG capital funds be returned to the City. The 2011 grant disbursement was \$142,969. The City has only been able to verify qualified expenses of \$126,447 which leaves \$16,522 unaccounted for. By October 18, 2013, FVTV will need to submit to the City a copy of your Washington State Excise Tax Return and proof of payment from FVTV verifying that \$10,621 in Washington State sales tax has been paid on the purchases of \$126,447. You will also need to either produce receipts for qualified expenditures totaling the remaining \$5,901 that is unaccounted for or you will need to return that amount to the City by October 25, 2013.

We recognize that FVTV is primarily a volunteer run organization, but submitting copies of paid invoices should not be overly burdensome and is a requirement of accepting the funding. The City of Vancouver is responsible for ensuring that public funds are spent and accounted for appropriately and is subject to audit by the State of Washington for these funds.

I'm happy to arrange a meeting with our Auditor and Attorney if you would like to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanette M. Bader". The signature is fluid and cursive, with the first name being the most prominent.

Jeanette M. Bader
Program & Policy Development Manager

Cc: Christine Smith, Auditor
Bronson Potter, Chief Assistant City Attorney



City of Vancouver • P.O. Box 1995 • Vancouver, WA 98668-1995

www.cityofvancouver.us

November 25, 2013

James Omelina
Fort Vancouver Television
1701 Broadway, #216
Vancouver, WA 98663

Dear Mr. Omelina:

The City of Vancouver has reviewed the additional receipts associated with FVTV's 2011 PEG grant that you brought in to the City Manager's Office on October 28, 2013 and sent electronically on November 20, 2013. As a recap, FVTV received a disbursement of \$142,969 in PEG funds for the 2011 grant in March 2012. Prior to the receipts delivered on October 28th, we had approved receipts totaling \$126,447 so we were looking for confirmation of expenditure of the remaining \$16,522.

There were a number of concerns identified with the receipts you provided on October 28th:

- Many of the receipts were duplicates which reduced the total amount of allowable expenses significantly.
- \$16,093 in receipts are ineligible because they were for expenditures that were made prior to the grant being awarded in December 2011. Per PEG Grant Guidelines: "PEG Capital Support Funds may not be used for operating expenditures or to offset any previous capital purchase made prior to the award of funds. Applicants are hereby notified that funds must not be considered awarded until applicant receives written notification of funding from the City of Vancouver/Clark County Telecommunications Commission".
- \$275 of the expenditures are ineligible because they don't meet the definition of "capital" expenditures -more than \$1,000. There were software, cameras and other items that we did allow even though they were less than \$1,000 because they were part of building a system. However items like extension cords, batteries, duct tape, etc. are considered operating expenses and are not an allowed use of PEG funds. Per PEG Grant Guidelines: "PEG Capital Support Funds may not be used for operating expenditures or to offset any

previous capital purchase made prior to the award of funds. Applicants are hereby notified that funds must not be considered awarded until applicant receives written notification of funding from the City of Vancouver/Clark County Telecommunications Commission”.

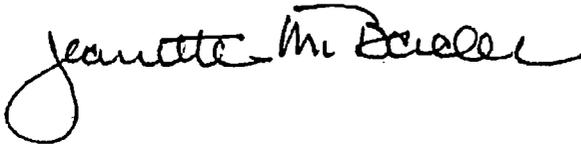
The PEG grant agreement requires that FVTV pay Washington State sales and use tax on all purchases. \$132,286 of your allowable purchases were made in Oregon or California and according to the receipts, sales tax was not paid at the time of purchase. Based on that, FVTV owes \$11,112 in Washington State sales tax. If you have already paid the tax, please provide a copy of your Washington State Excise Tax Return and proof of payment by December 6, 2013. If you have not paid the sales and use tax, the City will pay it out of the \$11,723 remaining in the 2011 PEG grant award that was not disbursed to FVTV.

With the receipt provided on November 20th, we currently have allowable receipts for \$135,566 out of \$142,969 from the 2011 PEG grant with \$7,403 unaccounted for. By December 13, 2013 the City needs to receive copies of receipts for allowable (capital) expenses totaling \$7,403 or a check reimbursing the PEG Capital Fund in the amount of \$7,403.

We recognize that FVTV is primarily a volunteer run organization, but submitting copies of paid invoices should not be overly burdensome and is a requirement of accepting the funding. The City of Vancouver is responsible for ensuring that public funds are spent and accounted for appropriately and is subject to audit by the State of Washington for these funds.

I'm happy to arrange a meeting with our Auditor and Attorney if you would like to discuss this further.

Sincerely,

A handwritten signature in black ink that reads "Jeanette M. Bader". The signature is written in a cursive style with a large loop at the beginning of the first name.

Jeanette M. Bader
Program & Policy Development Manager

Cc: Christine Smith, Auditor
Bronson Potter, Chief Assistant City Attorney

City of Vancouver/Clark County, Washington
Public, Education and Government (PEG) Capital Fund Applications
PEG GRANT EVALUATION
2013

Project Title:

Applicant:

Reviewer:

Grant Purpose: Equipment/projects supported by PEG capital funds must benefit Vancouver/Clark County cable television subscribers by resulting in locally produced programming that is aired by designated access providers.

1) Purpose of the Project

Does the grant application clearly explain the purpose of the project/equipment purchase and what the applicant hopes to accomplish? Accomplishments should tie directly back to the number and quality of locally produced programming. Some projects/programs have additional benefits, i.e. training of students or community volunteers, but that is not the primary focus of PEG capital funding.

2) Public Benefit

- a. Is the intended audience for the project clearly and appropriately defined? Does the applicant indicate how they intend to reach that audience?
- b. Does the applicant explain how this proposed equipment/project will provide added benefit to Vancouver/Clark County cable subscribers through improving and/or expanding local programming?

3) Evaluation

- a. Does the applicant clearly indicate how the outcomes of this equipment/project will be measured (i.e. number of additional programs, number of additional hours produced)?
- b. Are the measurements used appropriately tied to the goal of PEG capital funding (locally produced programming)?

4) Previous Performance

Did the applicant clearly explain how PEG funding from the previous year was used and what the impact was on improving or expanding cable programming?

5) Feasibility

- a. Did the applicant explain if this equipment will be a replacement or new. If replacement, did they explain what has become or will become of the equipment being replaced?
- b. Did the applicant explain whether their equipment purchase or program can be modified if the project can only be partially funded?

6) Cost Estimates and Specifications (For Technical Review)

- a. Does the application include cost estimates and manufacturers technical specifications for the proposed equipment or project? Yes _____ No _____
- b. Based on the proposed project, is the type of equipment being requested logical and do the quoted prices seem reasonable?

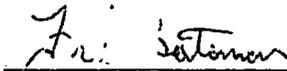
7) Long Range Capital Plan

- a. Did the application provide a copy of a 3-5 year capital plan for equipment and projects?
- b. Did the applicant clearly demonstrate how the equipment being proposed for purchase fits into the long-range plan?

8) Additional Questions or Concerns About the Application?

- 2.2 The Commission directs staff to forward this Resolution and finalized copies of the **PEG Committee Recommendations Regarding the 2013 Award of PEG Capital Support Funds** to the Vancouver City Council and the Clark County Board of Commissioners, as well as to the applicants.
- 2.3 The Commission recommends that the Vancouver City Council and Clark County Board of Commissioners award funds to TV ETC and CVTV as outlined in this Resolution.

Approved (Date): December 4, 2013



Fred Bateman, Chair, City/County Telecommunications Commission