

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is effective on this \_\_\_ day of \_\_\_\_, 2011 by and between the Cities of Carpinteria, Goleta, Santa Barbara and the County of Santa Barbara ("collectively the Local Governments") and CoxCom, LLC. ("Cox").

**WHEREAS**, Carpinteria, Goleta, and the County of Santa Barbara have each granted a Franchise ("Local Franchises") to Cox.

**WHEREAS**, Cox is providing cable services to the City of Santa Barbara pursuant to a state video franchise ("State Franchise") issued by the California Public Utilities Commission pursuant to the Digital Infrastructure and Video Competition Act ("DIVCA").

**WHEREAS**, pursuant to the existing State and Local Franchise Agreements granted to Cox, Cox is obligated to provide a minimum of six (6) analog channels for public, educational, and government ("PEG") access purposes in a consecutive or near consecutive block of channels.

**WHEREAS**, pursuant to the existing Local Franchises, Cox is obligated to transition the analog PEG channels to a digital format at any time *after* Cox has converted its entire cable system from analog to fully digital format, upon six (6) months written notice by the Local Government(s).

**WHEREAS**, pursuant to the State and Local Franchise Agreements, Cox must deliver all PEG channels to subscribers without any additional expense over the cost of basic service and without the need for any equipment other than that necessary to receive the lowest cost tier of service.

**WHEREAS**, Cox has approached each of the Local Governments requesting an early transition of the PEG access channels from analog to digital format prior to the conversion of

its entire cable system to digital format as permitted by the franchises granted by the Local Governments.

**WHEREAS**, South Coast cable subscribers have become accustomed to receiving the PEG access channels on certain channel numbers and changes to those numerical locations may be cause for potential loss of viewership and disruption to the public.

**WHEREAS**, the University of California at Santa Barbara has approached Cox and each of the Local Governments requesting a higher educational access channel.

**WHEREAS**, pursuant to the existing Local Franchises granted to Cox by the Local Governments, Cox is obligated to provide two digital PEG access channels for each analog PEG channel at such time as the complete conversion of the cable system from analog to digital format occurs.

**WHEREAS**, the Local Governments are willing to permit Cox to implement an early transition of PEG channels from analog to digital format under certain terms and conditions.

**WHEREAS**, the parties intend this MOU to express their mutual agreement with regard to those terms and conditions.

**NOW, THEREFORE**, in consideration of the Local Governments permitting the PEG access channels to be converted from analog to digital format prior to the full conversion of the cable system to digital format, the parties agree as follows:

**SECTION 1. TERMS AND CONDITIONS FOR EARLY ANALOG TO DIGITAL TRANSITION OF PEG ACCESS CHANNELS**

1.1 Between the date upon which Cox completes the early digital conversion of the PEG access channels and the date that Cox completes the full digital transition of the cable system (which full digital conversion is estimated by Cox to occur on or before December 31, 2012) the PEG access channels shall be located on the following channel numbers.

- Channel 17 South Coast Regional Public Access
- Channel 18 City of Santa Barbara Government Access
- Channel 19 City of Goleta Government Access
- Channel 20 Santa Barbara County Government Access
- Channel 21 City of Carpinteria Government
- Channel 71 South Coast Regional Arts, Community, Culture and K-12 Education Access (operated by Santa Barbara Channels), formerly Channel 21, to be moved temporarily to Channel 71.
- Channel 72 University of California Santa Barbara Post Secondary Educational Access

1.2. After Cox has completed the transition of its cable system to fully digital, which is anticipated by Cox to occur on or before December 31, 2012, the PEG standard digital television (SDT) channels shall be located on the following numbers in a consecutive block of channels:

- Channel 17 South Coast Regional Public Access
- Channel 18 City of Santa Barbara Government Access
- Channel 19 City of Goleta Government Access
- Channel 20 Santa Barbara County Government Access
- Channel 21 City of Carpinteria Government Access
- Channel 22 South Coast Regional Arts, Community, Culture and K-12 Education Access (operated by Santa Barbara Channels), formerly Channel 21, moved temporarily to Channel 50.
- Channel 23 University of California Santa Barbara\_\_Post Secondary Educational Access

After Cox has completed the full digital transition, the PEG standard digital television (SDT) channels shall not be located at numerical locations that differ from those listed above without the approval of the affected Local Governments, in consultation with the University of California Santa Barbara ("UCSB"), and Santa Barbara Channels.

The parties to this Agreement acknowledge that for technical reasons Cox may not be able to position the two educational access channels on Channels 22 and 23 after the full digital transition. The Local Governments agree that Cox may reposition the two educational channels on Channels 15-16 (as a replacement for the Channels 22-23).

However, if Cox seeks to relocate the two educational access channels to channels other than Channels 15-16 or 22-23 it must notify the Local Governments, Santa Barbara Channels, and University of California Santa Barbara at least six (6) months prior to the full digital conversion. Cox shall submit a written explanation of the need to relocate the channels and propose alternative channel locations for the two educational access channels that are consistent with the Local Franchises. Nothing in this Agreement obligates the Local Governments to agree to such repositioning.

1.3 Pursuant to its State and Local Franchise Agreements, Cox shall deliver all PEG access channels -- whether in analog or digital form -- to cable subscribers on the lowest cost tier of service and without any charges for additional equipment, should such equipment be necessary.

1.4 Pursuant to its Local Franchises, Cox is obligated to provide \$3,000 per relocated PEG channel to the designated PEG channel management entity. Therefore, pursuant to this MOU:

a. Cox shall provide \$3,000 to the City of Carpinteria for remarketing and rebranding of the City of Carpinteria Government Access Channel, no later than 30 days after the effective date of this Agreement.

b. Cox shall provide \$3,000 to Santa Barbara Channels (the entity responsible for the operation and management of the South Coast Regional Arts, Community, Culture and K-12 Education Access Channel, which is being moved to Channel 71 on the effective date of this MOU), no later than 30 days after the effective date of this Agreement and a second \$3,000 to Santa Barbara Channels no later than 30 days prior to the date that the South Coast Regional Arts, Community, Culture and K-12 Education Access Channel is moved to Channel 22 or 23 or 15 or 16.

c. Cox shall provide \$3,000 to the University of California Santa Barbara ("UCSB") to brand and market the interim location of the UCSB educational access channel on Channel 72 no later than 30 days after the effective date of this MOU. Cox shall provide a

second \$3,000 to UCSB to rebrand and remarket the new location of the UCSB Educational Access Channel no later than 30 days prior to the date that channel is moved to Channel 22 or 23 or 15 or 16.

d. Cox shall provide the City of Goleta \$3,000 for remarketing and rebranding of the Goleta Government Access Channel as a full time non-shared channel, no later than 30 days after the effective date of this Agreement.

1.5 Pursuant to the State and Local Franchise Agreements, Cox shall provide and maintain connections between its headend and all public, educational and governmental access facilities, wherever the same may be located, to permit PEG access content to be transmitted to the cable system headend for distribution to cable subscribers.

1.6 In order to avoid any possible loss of PEG channel services in locations with centralized, building-wide delivery of cable signals -- such as in local government and school buildings, retirement and senior citizen housing, and mobile home parks -- during the early transition or full digital transition:

a. Cox will coordinate with local government staff to determine if the digital channel mapping used by Cox will cause any issues in the delivery of PEG channels to government buildings with internal distribution systems. Cox will develop solutions to issues that may arise, implement those solutions, and provide any needed additional equipment without any charges to the affected local government entity (ies). Such solutions should be accomplished prior to interim migration to avoid any disruptions in service to local government buildings.

b. Cox will notify each school principal of the transition and coordinate with schools to address and solve any issues that may occur prior to the digital conversion.

c. Cox will notify bulk account holders of potential issues with internal distribution systems that may disrupt cable service as a result of the digital channel mapping. If requested by building manager or account holder, Cox will test the digital channel mapping in such buildings and resolve any issues that may arise to assure that PEG channels are viewable within the affected buildings.

1.7 Upon each occasion that any of the PEG access channels' numerical location is moved, Cox will, at no cost to the Local Governments or Santa Barbara Channels or the University of California, undertake a public outreach/marketing effort to inform both residential and business subscribers of the change in PEG access channel locations. The public outreach/marketing effort to be undertaken by Cox will include the following:

a. Thirty (30) days prior to the date when the PEG access channels will transition from analog to digital, Cox will place a color display ad in the Santa Barbara News Press and The Daily Sound.

b. A message on all customer bills starting 30 days prior to and running through 30 days after the transition date.

c. A direct mail postcard to all affected customers, twenty-one (21) days prior to the transition date.

d. A second direct mail postcard to all affected customers, seven (7) days prior to the transition date.

e. An information "crawl" on affected channels every 30 minutes, starting a week before the transition.

f. Two email blasts to customers with Cox data service, one delivered seven (7) days and a second delivered three (3) days prior to the transition.

g. Training of customer-facing field, telephone, and retail associates to assist customers through the transition in advance of the transition.

1.8 The City of Carpinteria Government Access Channel will be moved as a result of the early transition from analog to digital PEG channels. Therefore, as incentives to the City of Carpinteria, Cox agrees to provide the following at no cost to the City:

a. Cox will provide the City of Carpinteria with up to 20 hours per month of time on the "Free Zone" on-demand service for local government meetings and informational programs, until the natural end of the existing local Franchise (July 24, 2018). In order for the City programming to be carried on the Free Zone, each program must be encoded. Cox will encode four (4) hours per month of City programming free of charge. If the City wishes to

use the full 20 hours per month of Free Zone server time, Cox will provide a fully trained person to do the additional requested encoding (over and above the aforementioned free encoding time). The City will be responsible for paying the cost for this additional encoding time. Alternatively, Cox is willing to train an individual of the City's choosing to do the encoding at the Cox Santa Barbara facilities at which the encoding equipment is located. In this case, there would be no charge to the City for the use of the encoding equipment or Cox personnel to train this individual. Each of the programs provided to Cox by the City will remain available on the on-demand service for two months, provided that tapes of such meetings or programs are provided to Cox in a format and within timing parameters as reasonably designated by Cox.

b. Cox will provide videotaping services to the City for a "State of the City" program annually, should the City undertake to produce such a program, until the natural end of the existing local Franchise (July 24, 2018). The City agrees to be responsible for all the content of such a program and to work collaboratively with Cox regarding scheduling of taping and other logistics pursuant to the production of such programs.

c. Cox will provide an equipment grant to the City of Carpinteria to replace and update government access equipment in the amount of \$24,000, no later than 30 days after the effective date of this Agreement.

1.9 The City of Goleta will have a fully dedicated government access channel that will no longer be shared with another channel as a result of the early transition from analog to digital PEG channels, and Cox therefore agrees to provide the following as incentives to the City of Goleta at no cost to the City:

a. Cox will provide the City of Goleta with up to 20 hours per month of time on the Free Zone on-demand service for local government meetings and informational programs, until the natural end of the existing local Franchise (January 11, 2015). In order for the City programming to be carried on the Free Zone, each program must be encoded. Cox will encode three (3) hours of City programming per month free of charge. If the City wishes to use the full 20 hours per month of Free Zone server time, Cox will provide a fully trained person to do the additional requested encoding (over and above the aforementioned free

encoding time). The City will be responsible for paying the cost for this additional encoding time. Alternatively, Cox is willing to train an individual of the City's choosing to do the encoding at the Cox Santa Barbara facilities at which the encoding equipment is located. In this case, there would be no charge to the City for the use of the encoding equipment or Cox personnel to train this individual. Each of the programs provided to Cox by the City will remain available on the on-demand service for two months, provided that tapes of such meetings or programs are provided to Cox in a format and within timing parameters as reasonably designated by Cox.

b. Cox shall provide videotaping services to the City for two special event programs annually, should the City undertake to produce such programs, until the natural end of the existing local Franchise (January 11, 2015). The City agrees to be responsible for the content of such programs and to work collaboratively with Cox regarding scheduling of taping and other logistics pursuant to the production of such programs.

c. Cox will provide an equipment grant to the City of Goleta to replace and update government access equipment in the amount of \$21,000, no later than 30 days after the effective date of this Agreement.

1.10 Cox agrees to provide the following as incentives to the City of Santa Barbara:

a. Cox shall provide Institutional Network bandwidth and services pursuant to the same rates, terms, and conditions as those contained in Section Five of Ordinance 5244 as adopted by the City Council of the City of Santa Barbara on June 25, 2002 (see Exhibit A to this MOU), until December 31, 2017.

b. Cox shall continue to provide the complimentary cable drops and monthly service to the government and school buildings and locations that were receiving such services on December 1, 2010, in addition to any equipment necessary to receive the digital channels as identified in Section 1.6.A. of this Agreement, until December 31, 2017.

1.11 One of the access channels operated by Santa Barbara Channels ("SB Channels") on behalf of the Local Governments will be moved twice as a result of the early



transition of analog to digital PEG channels. Therefore, as incentives to SB Channels, Cox agrees to provide the following at no cost to SB Channels:

a. Cox will provide SB Channels with up to 12 hours per month of time on the Free Zone on-demand service for regional arts, community, and culture programs until July 24, 2018. In order for SB Channels programming to be carried on the Free Zone, each program must be encoded. Cox will encode three (3) hours of SB Channels programming per month free of charge. If SB Channels wishes to use the full 20 hours per month of Free Zone server time, Cox will provide a fully trained person to do the additional requested encoding (over and above the aforementioned free encoding time). SB Channels will be responsible for paying the cost for this additional encoding time. Alternatively, Cox is willing to train an individual of SB Channels choosing to do the encoding at the Cox Santa Barbara facilities at which the encoding equipment is located. In this case, there would be no charge to SB Channels for the use of the encoding equipment or Cox personnel to train this individual. Each of these programs will remain available on the on-demand service for two months, provided that tapes of such meetings or programs are provided to Cox in a format and within timing parameters as reasonably designated by Cox.

b. Cox will provide an equipment grant to SB Channels to replace and update public and educational access equipment in the amount of \$42,000, no later than 30 days after the effective date of this Agreement.

1.12 Except for those terms associated with Section 1.10.a., Cox agrees to provide all of the services, incentives, and community benefits specified in Sections 1.1 through 1.10 free of any charges to the affected entities.

## **SECTION 2. RESERVATION OF RIGHTS**

2.1 Nothing in this MOU diminishes or affects the existing and continuing commitments, duties, and obligations -- present, continuing, and future -- of Cox as embodied in the State and Local Franchise Agreements, and all provisions of the State and Local Franchises remain in full force and effect and are enforceable in accordance with their terms and consistent with applicable law.

2.2 Each party to this MOU, after consultation with its legal counsel as to the facts surrounding this MOU, concludes and agrees no consideration provided pursuant to this MOU can be construed to constitute a franchise fee, nor are any payments made under the terms of this MOU subject to any limitations on franchise fees under applicable law or in the Franchise Documents.

2.3 Neither this MOU nor the consent of the Local Governments to this MOU shall constitute a waiver or release by the Local Governments or Cox of any right that each may have with respect to Cox's compliance (or non-compliance) with the terms, conditions, requirements and obligations set forth in the State and Local Franchise Agreements. The Local Governments expressly reserve all rights they may have under applicable law to enforce the provisions of the Local Franchise Agreements. Cox expressly reserves any and all claims and defenses it may have to any such claim.

### **SECTION 3. MISCELLANEOUS PROVISIONS**

3.1. This MOU constitutes the entire agreement of the parties with respect to the early transition of PEG channels from analog to digital transmission. No statements, promises or inducements inconsistent with this MOU made by any party shall be valid or binding, unless in writing and executed by all parties. This MOU may only be modified by written amendments hereto signed by all parties.

3.2. If any part, section, subsection, or other portion of this MOU or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this MOU, and applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

3.3. Each signatory to this MOU represents that he or she has the authority to enter into this MOU.

3.4. This MOU is freely and voluntarily given by all of the parties, without any duress or coercion, and after each party has consulted with its counsel. Each party hereto has carefully and completely read all of the terms and provisions of this MOU.

3.5. This MOU shall be binding upon, and shall inure to the benefit of, the parties hereto and their successors in interest, assigns, personal representatives and heirs.

3.6. This MOU may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

3.7. The headings in this MOU are for convenience of reference only and are not a material part of this MOU. They shall not be used in determining the intent of the parties.

3.8. This MOU shall be governed by and construed, and the legal relations between the parties determined, in accordance with the laws of the State of California.

3.9. The Franchisee consents to venue and jurisdiction in the U.S. District Court for Central District of California and the Santa Barbara County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

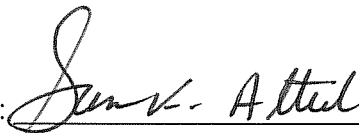
By: \_\_\_\_\_  
Chair, COUNTY OF SANTA BARBARA

Date: \_\_\_\_\_

ATTEST:  
CHANDRA L. WALLAR  
CLERK OF THE BOARD

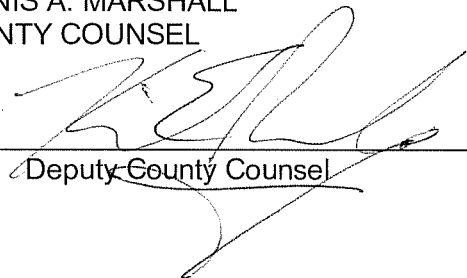
.COXCOM, LLC

By: \_\_\_\_\_  
Deputy

By:   
Sam Attisha, VICE president

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

By:   
Deputy County Counsel

By:   
Deputy