AGREEMENT TO PROVIDE OPERATIONAL & CAPITAL SUPPORT

This Grant Agreement (Agreement) is between the Mt. Hood Cable Regulatory Commission ("MHCRC") and MetroEast Community Media, an Oregon nonprofit public benefit corporation (Grantee), to provide operational and capital support.

**RECITALS:**

1. Grantee is an Oregon nonprofit public benefit corporation, which provides media and broadband technology training, tools and distribution platforms to diverse communities throughout East Multnomah County to engage broad participation in civic and cultural life, and to provide video programming of, by, and for the community over local public, educational and governmental access cable channels.

2. Through an ascertainment of community needs, the MHCRC found that historically underrepresented and non-English speaking communities and other marginalized populations face disparities in using and accessing media and broadband technology which, among other things, may lead to inequities in opportunities for education, civic engagement and workforce development. Grantee is uniquely situated to assist the MHCRC in meeting certain technology and broadband access goals.

3. The cities of Gresham, Troutdale, Fairview and Wood Village and Multnomah County ("Jurisdictions") have entered into cable services franchise agreements ("Cable Franchises"), which, among other things, provide financial and technology resources dedicated for public, educational and government uses by access providers as designated by the MHCRC.

4. The Jurisdictions have entered into an intergovernmental agreement (MHCRC IGA), which among other things, delegates responsibility to the MHCRC for ensuring compliance with Public, Educational, and Governmental ("PEG") Access Cable Franchise requirements, overseeing and allocating certain PEG Access resources, including collecting and allocating PEG/I-Net Fee funding (Capital Funds"), and entering into grant agreements as necessary to accomplish the general purposes of the MHCRC IGA.

5. Under the MHCRC IGA, the Jurisdictions have agreed to provide operational funds to Grantee in an annual amount equal to sixty percent (60%) of the franchise fees collected by the MHCRC on behalf of the Jurisdictions ("Operation Funds").

6. Under this Agreement and predecessor agreements, the MHCRC designates Grantee as a PEG Access provider, and assigns control and management of certain PEG Access resources provided under the Cable Franchises.

7. The MHCRC and Grantee desire to enter into this Agreement for the provision of MHCRC funds to support the operational and capital needs of Grantee to provide services to the community.

8. Continued annual Grantee Operation Funds and Capital Funds for fiscal years through the term of this Agreement are provided for under Article IV(A). Each fiscal year begins July 1 and ends June 30. Funds are anticipated to be available for this purpose in the MHCRC's budget, subject to annual approval by the Jurisdictions.

## ARTICLE I. SCOPE OF WORK

Grantee shall use the funds provided under this Agreement exclusively for the purposes described in Exhibit A (Scope of Work), attached and incorporated herein.

## ARTICLE II. TERM

The term of this Agreement is July 1, 2018, through and including June 30, 2022, unless terminated in accordance with Article V(B). This Agreement shall be effective when passed by the MHCRC and the Agreement is executed by all the parties, as shown by their signatures below.

## ARTICLE III. SPECIFIC CONDITIONS OF THE GRANT

A. MHCRC Grant Manager. The MHCRC hereby appoints Julie Omelchuck, City of Portland Office for Community Technology, as its Grant Manager for this Agreement. The MHCRC may, from time to time, designate another person to act as the MHCRC Grant Manager and will inform Grantee in writing, in accordance with Article III(F), of any change in Grant Manager. The MHCRC Grant Manager is authorized to approve billings and invoices submitted pursuant to this Agreement and to carry out all other MHCRC actions and responsibilities in accordance with this Agreement.

B. Grantee Project Manager. Grantee hereby appoints Martin Jones, Chief Executive Officer, as its Project Manager for this Agreement. Grantee may, from time to time, designate another person to act as the Grantee Project Manager and will inform the MHCRC in writing, in accordance with Article III(F), of any change in Project Manager.

C. Program and Fiscal Monitoring. The Grant Manager shall monitor Grantee on an as-needed basis to assure Agreement compliance. Monitoring may include, but is not limited to, on-site visits, telephone interviews and review of required reports. Monitoring will cover both programmatic and fiscal aspects of the Agreement. The frequency and level of monitoring will be determined by the Grant Manager. Notwithstanding such monitoring or lack thereof, Grantee remains fully responsible for performing the services required by this Agreement.

D. Publicity. Grantee shall use its best efforts to mention the MHCRC's grant funding in publicity regarding the program(s) that will be supported by the funds under this Agreement. Grantee shall work with the Grant Manager to ensure that the PEG Access resources provided under the Cable Franchises are appropriately acknowledged.

E. MHCRC Board Appointee.

1. The MHCRC shall appoint one non-voting member of Grantee's Board of Directors.. Grantee accepts and shall seat the MHCRC's designee as a member of its Board.

2. Grantee shall provide the MHCRC Board Appointee and Grant Manager adequate notice of the time, date and location of all meetings of Grantee's Board of Directors and committees thereof; and provide all relevant materials distributed prior to, at or subsequent to such meetings.

3. The MHCRC Board Appointee shall have the same rights as the other members of Grantee's Board of Directors to monitor and participate in all Board-related affairs of Grantee.

4. Grantee shall, upon reasonable request, provide MHCRC Board Appointee and Grant Manager with copies of all relevant information regarding Grantee's financial affairs, internal business affairs, and accounting and inventory systems.

F. Notice. All notices provided under this Agreement shall be sufficient if:

Emailed to the receiving party's address specified below, or in writing to the address specified below and: (1) delivered personally to the addressee listed below; (2) deposited in the United States Mail, postage prepaid, certified mail, return receipt requested; or (3) sent by courier (return receipt requested). Any notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

Any changes to the contact information below shall be sent to the other party by email or in writing:

If to the Grantee:

Martin Jones
Chief Executive Officer
MetroEast Community Media
829 NE 8th St
Gresham, OR 97030
Email: martin@metroeast.org

If to the Grant Manager:

Julie Omelchuck
Program Manager, MHCRC
c/o City of Portland, Office for Community Technology
111 SW Columbia St., Suite 600
Portland, OR 97201
Email: julieo@mhcrc.org

G. Reports and Records.

1. Grantee shall maintain all financial and organizational records, documents and papers related to this Agreement for three (3) years after MHCRC makes the final

Agreement payment, Grantee files its final reports under Exhibit B (Grant Status Reports), or termination of this Agreement, whichever is later. Grantee shall provide MHCRC prompt access to these records upon request and permit copying as MHCRC may require.

2. Grantee shall provide such information as deemed reasonably appropriate by the Grant Manager regarding the Grantee's activities and use of funds under this Agreement.

3. Grantee shall provide the Grant Manager, initially and within ten (10) business days of any change, current documentation of Grantee's tax-exempt status under the Internal Revenue Code.

4. Grantee shall provide the Grant Manager, initially and within ten (10) business days of any change, a copy of current policies and procedures described in Exhibit A: Scope of Work.

5. Status Reports. Within forty-five (45) calendar days after the close of each fiscal year six-month period, the Grantee shall submit a status report to the Grant Manager in a format subject to approval by the Grant Manager. Such approval shall not be unreasonably withheld. Six-month status reports shall contain information as described in Exhibit B, unless otherwise approved by the Grant Manager.

6. Financial Reports. Within forty-five (45) calendar days after the close of each fiscal year quarter, the Grantee shall submit a financial report, approved by Grantee's Board of Directors, to the Grant Manager based on the Grantee's fiscal year budget. Unless the Grantee and the Grant Manager agree to a different report format or different report parameters, the quarterly financial report shall contain information on Grantee's revenues, and capital and operating expenditures including, among other items:

   a. Sources and amounts of revenue;

   b. Capital expenditures (amounts, and percentage of total) by budgetary line item and capital expenditures made from Capital Funds received under Article IV(A)(2);

   c. Operating expenditures (amounts, and percentage of total) by budgetary line item); and,

   d. Year-to-date balance sheet.

7. Annual Capital Report. Within forty-five (45) calendar days after the close of a Fiscal Year, Grantee shall submit an annual capital financial report to the Grant Manager based on the actual Capital Funds revenues and expenditures for Grantee's fiscal year. Unless the Grantee and the Grant Manager agree to a different report format or different report parameters, the annual capital financial report under this Agreement, including, among other items:

a. Capital Funds beginning balance;

b. actual Capital Funds revenue;

c. actual Capital Funds expenditures by budget line item,; and

d. copies of paid receipts or other evidence for actual Capital Funds expenditures.

H. Audits

1. Grantee Annual Financial Audit. Within ninety (90) calendar days after the close of each fiscal year, the Grantee shall submit to the Grant Manager Grantee's financial statements prepared in accordance with generally accepted accounting principles and audited or reviewed by an independent Certified Public Accountant. The Grantee's annual financial statements shall fairly represent the overall financial status of the Grantee in accordance with generally accepted audit standards.

2. MHCRC Audits. The MHCRC, either directly or through a designated representative, may conduct a financial or performance audit or review of Grantee records for the billings and services under this Agreement, upon reasonable notice, at any time during this Agreement and during the three (3) year period established in Article III(G). The Grant Manager shall promptly provide Grantee with written notice of the audit or review conclusions. If an audit or review discloses that payments to Grantee exceeded the amount to which Grantee was entitled, then Grantee shall repay the amount of the excess to MHCRC.

3. Cable Franchisee Audits. As provided under the terms of a Cable Franchise, the holder of such a Cable Franchise ("Cable Franchisee") may conduct a financial review or audit of Grantee for the purpose of verifying whether use of the PEG/I-Net Fee is in accordance with the Cable Franchises. If the MHCRC receives notice in accordance with the terms of the Cable Franchises of such audit or review, the Grant Manager shall notify Grantee within five (5) business days of receiving the notice, and shall identify to Grantee the relevant financial records of Grantee that the Cable Franchisee seeks to review. The scope of such Cable Franchisee audit or review of Grantee shall be consistent with the terms of the applicable Cable Franchise. Grantee agrees to make such relevant financial records available to Cable Franchisee's authorized representative for inspection and copying. Such records shall be reviewed during normal business hours at a time and place made available by Grantee. The Grant Manager shall promptly provide Grantee with written notice of the audit or review's conclusions.

G. Pledge of Assets.

1. For purposes of this Section, "Pledge of Assets" shall mean any form of sale, encumbrance, conveyance, mortgage, assignment, pledge, lease or lien, provided, in whole or in part, by Grantee to a third party other than the MHCRC with respect to Grantee's real property or tangible assets or fixtures with an un-depreciated purchase value of more than $300,000.00.



2. Grantee shall not provide a Pledge of Assets within the meaning of this Section to a third party other than the MHCRC without prior consent of the MHCRC, which consent shall not be unreasonably withheld, conditioned or delayed. Such consent may be authorized by the MHCRC for any Pledge of Assets with an un-depreciated purchase value of more than $300,000.00.

3. The MHCRC's granting of consent to a Grantee Pledge of Assets in one instance shall not render unnecessary any subsequent consent in any other instance. Except where consent is specifically provided, Grantee agrees that the MHCRC's interests shall not be subordinated to any other pledge-holder, lienholder or other obligee with respect to any Grantee assets.

## ARTICLE IV. PAYMENTS

A. Subject to the terms and conditions of this Agreement, the MHCRC shall pay Grantee an annual grant amount as follows:

1. Operation Funds. Subject to the terms and conditions of this Agreement, the MHCRC shall pay Grantee sixty percent (60%) of the franchise fee revenues received from the Jurisdictions' Cable Franchises in accordance with the MHCRC IGA.

2. Capital Funds.

   a. Subject to the terms and conditions of this Agreement, the MHCRC shall pay to the Grantee a portion of the PEG/I-Net Fee received by the MHCRC derived from Cable Franchises. The total amount of Capital Funds payments under this Section shall be based on a portion of the MHCRC's projected PEG/I-Net Fee revenues for PEG Access purposes for the succeeding fiscal year and the Grantee's capital budget, under Article IV(B)(3)(d). The annual Capital Funds amount is subject to review by the MHCRC of the Grantee's capital budget, the Jurisdictions' approval of the MHCRC's annual budget, and Grantee's adherence to this Agreement.

   b. Grantee agrees to expend Capital Funds provided under Article IV(A)(2)(a) only for capital expenditures. Grantee shall account for the Capital Funds separately in its books of accounts, maintain accurate documentation and inventory of assets acquired with Capital Funds and follow appropriate procedures for purchasing, amortizing and disposing of such assets.

   c. The MHCRC may, notwithstanding the provisions of Article IV(A)(2), accelerate any payments under Article IV(A)(2) if justified by the Grantee.

3. The MHCRC may consider additional special appropriations of funds as may be requested by the Grantee from time to time.

4. The MHCRC shall make payments for annual funding under Article IV(A) on a quarterly basis within sixty (60) calendar days of the end of each fiscal year quarter.

5. The MHCRC and the Grantee have entered into this Agreement under the federal and state laws in effect on the effective date of this Agreement, which allow the Jurisdictions to require cable operators to obtain cable services franchise agreements for use of the Jurisdictions' streets and public right-of-way, and to, among other things, pay franchise fees and the PEG/I-Net Fee for such use. The MHCRC and Grantee agree to negotiate modifications to this Agreement to account for any changes in such federal, state, or local law which impair the MHCRC's ability to comply with the funding obligations set out in Article IV(A) or impair Grantee's ability to provide the Scope of Work set out in Exhibit A. If no agreement is reached on such modifications, then the parties may agree to early termination of this Agreement in accordance with Article V(D).

B. Grantee shall annually submit to the Grant Manager:

1. By April 1, a proposed budget for the succeeding fiscal year for MHCRC review; and

2. By June 30, a budget adopted by Grantee's Board of Directors.

3. The budget shall include, at a minimum:

   a. Actual revenues and expenditures, by line item, for the past two fiscal years;

   b. The adopted budget, by line item, for the current fiscal year;

   c. Projected revenues and expenditures, by line item and line item detail, for the proposed fiscal year budget;

   d. Projected Capital Funds revenues and expenditures, by line item and line item detail; and

   e. A narrative identifying how funds provided under Article IV(A) will be used to support the Scope of Work in Exhibit A.

4. The budget shall be in a format acceptable to the Grant Manager. If the Grant Manager wishes to require any changes from a current budget format, the Grant Manager will notify Grantee of the required changes no less than forty-five (45) calendar days prior to the due date for budget submission.

5. Prior to February 1 of each year, the Grant Manager shall provide to Grantee a projection of the annual funding provided under Article IV(A) for the succeeding fiscal year.

6. Grantee shall submit to the Grant Manager any amendments or revisions to the budget within ten (10) business days of approval by Grantee's Board of Directors.

C. Prior to July 1 of each year, the MHCRC may disapprove a budget submitted by the Grantee for the succeeding fiscal year upon a determination that the budget submitted by Grantee reflects one or more of the following:

1. That the budget fails to support the Scope of Work described in Exhibit A or requirements under Article III;

2. That funds or assets the Grantee has received or is to receive from the MHCRC, or from or on account of a Cable Franchise, will be spent or applied for purposes unrelated to the Scope of Work in Exhibit A;

3. That funds the Grantee has received or is to receive from the MHCRC, or from or a Cable Franchise, will be endangered by waste, substantial damage, destruction, foreclosure or other similar jeopardy without sufficient, reasonable explanation or justification therefore; or,

4. That revenue reasonably expected to be received by the Grantee will be insufficient to meet debt obligations incurred or to be incurred by Grantee in light of Grantee's planned expenditures.

D. If at any time the Grant Manager determines that one or more of the conditions listed in Article IV(C)(1-4) exists, then notice of such determination together with recommended action shall be given to the Grantee and MHCRC.

E. Upon disapproval of the Grantee's budget as provided in Article IV(C), or on a determination by resolution of the MHCRC confirming a determination of the Grant Manager under Article IV(D), the MHCRC may impose reasonable terms on the expenditure of the funds provided to Grantee in Article IV(A) to protect against such fiscal deficiencies pending correction thereof by the Grantee.

## ARTICLE V. ENFORCEMENT

A. Compliance Remedies.

1. If the Grant Manager reasonably determines Grantee's performance is inconsistent with any requirements of this Agreement, then the Grant Manager shall provide written notice of such determination to Grantee, with a copy to the MHCRC. Grantee shall have thirty (30) calendar days after receipt of the notice to cure the inconsistency and document such cure to the Grant Manager. The Grant Manager may shorten the cure period only in the event that funds are being misapplied or wasted. The Grant Manager may lengthen the cure period if Grantee demonstrates a good faith effort to cure and the time period to cure may reasonably require a longer period. If, after the cure period, the Grant Manager reasonably determines that Grantee's performance is inconsistent with the requirements of this Agreement, the MHCRC may direct one or more of the following compliance tools be implemented until the MHCRC determines that the Grantee's performance is consistent with the requirements of this Agreement:

   a. Undertake a MHCRC audit or review of Grantee's records in accordance with Article III(H)(2).

   b. Reduce or suspend quarterly payments to Grantee. Funds withheld by the MHCRC may be used to support an audit or review in accordance with Article



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III(H)(2);

c. Require Grantee to return to the MHCRC all or any portion of funds received by Grantee under this Agreement that have been determined to have been spent outside of the scope or the requirements of this Agreement;

d. Terminate this Agreement in accordance with Article V(B).

2. Any funds withheld in accordance with Article V(A)(1)(b) may be released to the Grantee, net of any funds used under Article V(B)(1)(a), after the MHCRC is reasonably satisfied that Grantee's performance inconsistencies have been satisfactorily remedied and Grantee is in substantial compliance with the requirements of this Agreement.

3. a. If a Cable Franchisee audit under Article III(F)(3) becomes final, determining that Capital Funds received by Grantee have not been used in accordance with restrictions of the applicable Cable Franchise, then, with 30-days prior notice to Grantee the MHCRC may require that Grantee expend non-Capital Funds to achieve the stated purposes of the Capital Funds not spent in accordance with the Cable Franchise; or, upon demand by the MHCRC, Grantee shall return to the MHCRC the full amount of Capital Funds not spent in accordance with the applicable Cable Franchise; or

b. If the MHCRC determines that Grantee does not have access to sufficient non-Capital Funds, the MHCRC may directly reimburse the Cable Franchisee to account for the amount not spent by Grantee in accordance with the Cable Franchise, and exercise such remedies or take such steps as the MHCRC deems appropriate to provide for repayment or re-crediting of such funds to the MCHRC by Grantee.

B. Termination for Cause. It shall be cause for termination of this Agreement if Grantee uses grant funds outside the scope of this Agreement, or if Grantee fails to substantially comply with any other requirements under this Agreement. The MHCRC shall provide written notice to Grantee of such termination with a termination date no sooner than thirty (30) calendar days after receipt of the written notice by Grantee.

1. Upon notice of termination, the MHCRC is under no obligation to continue providing grant funds.

2. Upon notice of termination, Grantee shall not spend unused grant funds except as provided in Article V(B)(3) and Grantee is not authorized to perform services or take actions that would require the MHCRC to pay additional grant funds to Grantee.

3. The Grantee acknowledges that through the funding provided by the MHCRC under this and prior agreements, and due to the nature of the services provided by Grantee to benefit the citizens of the Jurisdictions, the MHCRC is a stakeholder with respect to the Grantee. In the event of termination in accordance with Article V(B), Grantee may use funds on hand for payment of costs reasonably incurred in performance of

work under this Agreement prior to the termination date, including payment of employee payroll and outstanding contracts for services. If the MHCRC so directs by resolution, the Grantee shall, after paying or making provision for payment of outstanding debts and obligations, pay to the MHCRC any unexpended funds received by the Grantee at any time from the MHCRC, or from or a Cable Franchise, and shall transfer into trust, subject to existing liens and encumbrances, with the MHCRC serving as trustee and beneficiary (the "Trust"), title to all real and personal property owned by the Grantee and all leasehold or other rights held by Grantee in real and personal property; provided, however, that Grantee shall not be required to transfer any copyrighted property, trademarks or other intellectual property not funded by MHCRC or from a Cable Franchise. In the event such a transfer is required, the MHCRC and Grantee shall execute all necessary and appropriate documents to acknowledge the transfer and Trust's ownership and control of such assets. The Trust shall be established to preserve, and shall preserve, the assets until a new public benefit corporation with a similar mission to Grantee is incorporated and enters an agreement similar to this Agreement with the MHCRC, at which point the MHCRC shall release the Trust assets to the new public benefit corporation on the MHCRC's behalf, pursuant to a grant agreement or similar agreement executed by the public benefit corporation and the MHCRC. Grantee may present, at the time of the MHCRC's consideration of such transfer of assets into the Trust, proposals for alternatives to such transfer of assets. In the event of termination by the MHCRC, by agreement or for convenience, or upon non-renewal of this Agreement, the MHCRC forfeits its role as stakeholder and releases any claim it may have to Grantee assets, including any claim of ownership interest in real or personal property.

4. In the event of termination in accordance with Article V(B), Grantee may use funds on hand for payment of costs reasonably incurred in performance of work under this Agreement prior to the termination date, including payment of employee payroll and outstanding contracts for services.

5. Nothing herein shall entitle the MHCRC to recover funds or assets the Grantee acquired from sources other than the MHCRC or from a Cable Franchise; nor shall the MHCRC be entitled to any funds or assets that the recovery of which would prevent full payment of amounts owing to creditors of the Grantee.

6. Termination by Agreement or for Convenience. The MHCRC and Grantee may terminate this Agreement at any time by mutual written agreement.

C. The MHCRC shall not consider the content of Grantee's programming, including the Grantee's or a producer's choice of subject matter and the point of view expressed, in making any decision regarding the allocation or appropriation of funds for the Grantee under Article IV(A), the adequacy of the Grantee's budget under Article IV(C), or the termination of this Agreement in accordance with Article V(B).

## VI. GENERAL GRANT PROVISIONS

A. Amendments. The Grant Manager may execute amendments to this Agreement, provided the changes do not increase MHCRC's financial risk. Amendments increasing the MHCRC's financial risk or the amount of the grant funds under Article IV(A) must be approved by the MHCRC. Amendments must be in writing and executed by the authorized representatives of the parties and approved as to form by the MHCRC's legal counsel.

B. Non-Discrimination. In carrying out activities under this Agreement, Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Grantee shall take actions to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Such action shall include but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this nondiscrimination clause. Grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Grantee shall incorporate the foregoing requirements of this paragraph in all its agreements for work funded under this Agreement.

C. Indemnification.

1. Grantee shall indemnify, defend and hold harmless the Jurisdictions and the MHCRC, and the Jurisdiction's and the MHCRC's officers, agents and employees, from any liability for claims, damages, costs, expenses, demands, actions, and suits, including without limitation copyright infringement, defamation, and any other claims (including court and appeal costs and reasonable attorney fees) brought against any of them, arising from the Grantee, its agents or employees' work under this Agreement, or by reason of any negligence or omission by the Grantee, its agents or employees, but not if arising out of any negligence or willful misconduct by the Jurisdictions/MHCRC, their officers, agents or employees. Except where the Grantee is primarily at fault under common law principles, the Grantee's obligation under this paragraph shall not apply to claims, demands, actions or suits arising from the Jurisdiction's Government Access cablecasting activities under this Agreement. The Jurisdictions shall provide Grantee prompt notice of any claim which the Grantee shall defend with counsel of its own choosing. No settlement or compromise of such claims will be done without the prior written approval of the Jurisdictions, which approval shall not be unreasonably withheld. Grantee shall consult and cooperate with the Jurisdictions while conducting its defense of the Jurisdiction, and the Jurisdiction shall fully cooperate with Grantee.

2. Neither the Jurisdictions nor the MHCRC shall be liable for any obligations incurred by the Grantee. The Grantee shall not represent to any person that the Jurisdictions or the MHCRC is liable for any of Grantee's obligations.

D. Insurance

Grantee shall obtain and maintain in full force at its expense, throughout the duration of the Agreement and any extension periods, the required insurance identified below. The MHCRC reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of this Agreement.

1. Workers' Compensation Insurance.

   a. Grantee, its contractors, if any, and all employers working under this Agreement, are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. A certificate of insurance, or copy thereof, shall be attached to this Agreement and shall be incorporated herein and made a term and part of this Agreement. Grantee will maintain workers' compensation insurance coverage for the duration of this Agreement.

   b. In the event Grantee's workers' compensation insurance coverage is due to expire during the term of this Agreement, Grantee agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration. Grantee will provide the MHCRC with certification of workers' compensation insurance renewals, as such insurance renewals occur.

2. Commercial General Liability Insurance.

   Grantee shall maintain commercial general liability and property damage insurance that protects Grantee and the MHCRC and its officers, agents and employees from all claims, demands, actions and suits for damage to property or personal injury, including death, arising from Grantee's work under this Agreement. Grantee's insurance shall also name as additional insureds the cable franchisees, as required under the Cable Franchises, with respect to any claim for injury, damage, loss, liability, cost or expense arising from programming or other transmission placed by Grantee on PEG access channels or the Cable Franchise Institutional Network (but not if arising out of any act done by the cable franchisee or its officers, agents or employees).

   The insurance shall provide coverage for not less than $1,000,000 per occurrence and an aggregate limit of not less than $2,000,000. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the MHCRC and its officers, agents and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance shall provide that it shall not terminate or be canceled

without thirty (30) calendar days' written notice first being given to the MHCRC. If the insurance is canceled or terminated prior to termination of the Agreement, Grantee shall provide a new policy with the same terms. Grantee agrees to maintain continuous, uninterrupted coverage for the duration of the Agreement.

3. Automobile Liability Insurance. Grantee shall have automobile liability insurance with coverage of not less than $1,000,000 each accident. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned autos. This coverage may be combined with the commercial general liability insurance policy.

4. Equipment Insurance. Grantee shall maintain insurance for all equipment and facilities, including fixtures, funded in whole or in part under this Agreement to replacement cost. This coverage may be combined with the commercial general liability insurance policy, at a minimum, insurance against loss or damage beyond the user's control, theft, fire or natural catastrophe. The MHCRC will be named as an additional insured on the policies for such insurance. The proceeds of such insurance will be applied to the replacement, restoration or repair of equipment and facilities, including fixtures.

5. Cablecaster's Errors and Omission Insurance. Grantee shall maintain insurance to cover the content of productions which are cablecast on an access channel in, at minimum, the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress or invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover individual access producers.

6. Directors' and Officers' Liability Insurance. Grantee shall maintain directors' and officers' liability insurance with coverage in an amount of not less than $1,000,000, subject to a reasonable deductible which shall be determined by Grantee's Board of Directors.

7. Officers', Directors', Trustees' and Employees' Fidelity Insurance. Grantee shall maintain fidelity insurance for all officers, directors, trustees and employees of the Grantee and all other persons handling or responsible for grant funds paid to or administered by the Grantee. The total amount of fidelity insurance coverage required shall be in an amount of the greater of either: (1) $1,000,000; or, (2) the total sum of grant funds provided to Grantee in a fiscal year quarter during the prior calendar year. Such fidelity insurance shall name the Grantee as obligee and shall contain waivers by the issuers of the insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium), without at least ten (10) business days' prior written notice to the MHCRC.

8. Continuous Coverage: Notice of Cancellation. Grantee shall maintain continuous, uninterrupted coverage for the duration of the Agreement. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non-renewal of coverage without thirty (30) calendar days' written notice from Grantee to MHCRC. If the insurance is canceled or terminated prior to termination of

the Agreement, Grantee shall immediately notify MHCRC and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of the Agreement and shall be grounds for immediate termination of this Agreement.

9. Certificate(s) of Insurance: Grantee shall provide proof of insurance through acceptable certificates of insurance and a CG 2026 additional insured endorsement form (or an equivalent blanket additional insured form) to MHCRC on or before execution of the Agreement and prior to any commencement of work or delivery of goods or services under the Agreement or initial payment of grant funds. The certificate(s) will specify all parties endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Agreement shall be obtained from insurance companies acceptable to MHCRC. MHCRC reserves the right to require, at any time, complete and certified copies of the required insurance policies evidencing the coverage required.

E. Grantee's Contractor: Non-Assignment. If Grantee utilizes contractors to complete its work under this Agreement, in whole or in part, Grantee shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Agreement as specified in this Agreement. However, Grantee shall remain obligated for full performance hereunder, and the MHCRC shall incur no obligation other than its obligations to Grantee hereunder. This Agreement shall not be assigned or transferred in whole or in part without prior written approval of the MHCRC.

F. Independent Contractor Status. Grantee, and its contractors and employees, are not employees of the MHCRC and are not eligible for any benefits through the MHCRC, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits. Grantee will be responsible for any federal, state or local taxes and fees applicable to payments hereunder.

G. Oregon Laws and Forum. This Agreement shall be construed according to the laws of the State of Oregon without regard to its provisions regarding conflicts of law. Any litigation between the MHCRC and Grantee arising under this Agreement or out of work performed under this Agreement shall occur in Multnomah County, and if in the federal courts, in the United States District Court for the State of Oregon.

H. Compliance with Law. Grantee and all persons performing work under this Agreement shall comply with all applicable federal, state and local laws and regulations. Grantee shall maintain its nonprofit and tax-exempt status during this Agreement..

I. Severability. The MHCRC and Grantee agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

J. Merger. This Agreement contains the entire agreement between the MHCRC and Grantee and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Agreement that are not contained herein.

K. Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement and the Agreement may only be enforced by the parties.

L. Electronic Transaction: Counterparts. The parties agree that they may conduct this transaction, including any amendments, by electronic means, including the use of electronic signatures. This Agreement, and any amendment, may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**SIGNATURES:**

**MT. HOOD CABLE REGULATORY COMMISSION**

Name: [signature]

Title: MHCRC Chair

Date: 6/18/18

**Approved as to Form**

[signature]

Legal Counsel

**METROEAST COMMUNITY MEDIA**

Name: [signature]

Title: President and CEO

Date: 6/20/18

[signature]