

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND
UNIVERSITY OF THE INCARNATE WORD REGARDING PROGRAMMING FOR
THE EDUCATIONAL ACCESS CHANNEL**

STATE OF TEXAS

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COUNTY OF BEXAR

This Agreement is entered into pursuant to Chapter 791 of the Texas Government Code by and between the City of San Antonio ("City"), acting by and through its City Manager or her designee, pursuant to Ordinance No. _____ passed and approved on _____, 2020; and The University of the Incarnate Word ("Grantee"), acting through its Chancellor, President, or designee (collectively, the "Parties"). The purpose of this Agreement is to establish the terms and conditions under which the City will provide Grantee Public, Educational and Governmental ("PEG") funds to develop and provide original educational programming consistent with the City's governance regulations and financial support for capital improvements consistent with Chapter 66 of the Texas Utilities Code.

**I.
INTRODUCTION**

1.1 Since September 1, 2005, after enactment of Senate Bill 5, codified as Tex. Util. Code, Chapter 66 ("Chapter 66") that City has been paid a Public, Educational and Governmental ("PEG") access channel fee by certificated cable and video providers operating in and providing service in the City.

1.2 Pursuant to Section 66.009(f) of Chapter 66, the City is responsible for management and operation of PEG access channels, known as the City's TVSA-Public, Educational and Government Channels.

1.3 PEG funds must be spent on capital cost items for PEG access channel facilities.

1.4 PEG access channel capital costs would be facilities and equipment used to provide public, educational and governmental access channel capacity; programming; transmissions, which would include but not be limited to coaxial and fiber lines; production studios and studio office furnishings and sets; production facilities; or other property having a useful life of more than one year.

1.5 Whereas, Grantee is a 4-year accredited university and has physical facilities located within the City's municipal boundaries and offers Filmmaking, Television or Digital Video Production programs as part of its curriculum.

**II.
GRANT FUND REQUIREMENTS**

2.1 Grantee is hereby granted \$50,000 in PEG funding to provide original television programming for possible use on the City's TVSA-Education Channel. The purpose of the funding is to increase the amount and quality of local programming on the TVSA-Education channel; and to increase student knowledge, experience and skills with tv/film production equipment thereby also increasing the talent availability for the local film and television industry.

2.2 Programming. Grantee provides or agrees to develop programming consistent with the terms of this Agreement and City regulations concerning the management of the TVSA-Education Channel. PEG funds will be used to purchase equipment for use in Grantee's Film, Television or Video Production programs ("Equipment"). Funding will be provided based on the following considerations:

2.2.1 Grantee will provide the City with a list of the Equipment to be purchased for PEG eligibility verification and approval. The City will either verify eligibility and approve each item of Equipment or will notify the Grantee of items that need to be amended or removed. The Grantee may replace disallowed items as appropriate and resubmit the amended list for verification and approval.

2.2.2 The Grantee agrees to purchase the approved Equipment up-front and provide the City written invoices for expenditures. The City will reimburse Grantee according to the terms set out in section 2.9.1.

2.2.3 In fulfillment of its content production obligations under this Agreement, the Grantee will develop and deliver two 30-minute television shows and two 30-minute newscasts, for a combined total running time of 120 minutes (2 hours), for possible use on the TVSA-Education Channel.

2.2.4 Grantee is in good standing concerning all contract agreements with the City of San Antonio.

2.3 Point of Distribution. Grantee understands and agrees that the Alamo Community College District ("ACCD") acts as the point of distribution for the City's TVSA-Education Channel. The point of distribution is at the SAC Educational Multimedia Center located at:

San Antonio College
Department of Creative Multimedia
Moody Learning Center Room 624
1819 N. Main Street
San Antonio, TX 78212

2.4 Daily Operation of TVSA-Education Channel. Grantee understands and agrees that ACCD will continue to staff the SAC studio and is responsible for operation of the TVSA-Education Channel. ACCD is required to:

2.4.5 Plan and coordinate with producers of educational programming to facilitate transmission of appropriate educational programming; and

2.4.6 Communicate with designated City staff on a regular basis regarding the on-going operation of the TVSA-Education Channel, including a program log.

2.5 Prioritizing of Educational Programming. The purpose of the TVSA-Education Channel is to provide viewers with programming that (i) inspires learning, (ii) informs the community about educational opportunities, and the educational process, and (iii) showcases the video and film productions of local area residents. Appropriate educational programming will fall into the following categories, which are listed in terms of priority:

2.5.1 Instructional programming and opportunities (such as distance learning college courses);

2.5.2 Public service educational programming (such as educational lectures and instructional programs);

2.5.3 Staff development and continuing education programming for instructors, administrators, counselors, and other professionals in the educational, arts, and cultural academic fields;

2.5.4 Arts and museum programming (such as video tours of museums or special cultural events);

2.5.5 Local educational content produced by student producers and registered Education Channel producers;

2.5.6 Educational news and bulletins (such as district-wide or campus news, and educational public service announcements);

2.5.7 School events (such as recording of sporting events and graduations);

2.5.8 Other local educational programming produced by individuals or organizations (such as school board or ACCD Board of Trustee meetings); and

2.5.9 Emergency announcements, though rare, may interrupt any scheduled programming.

2.6 Grantee understands and agrees that determination of what is considered "appropriate" educational content will be within the discretion of ACCD, subject to section 2.7 herein.

2.7 Grievance Procedures. In the event that ACCD determines that a program topic or program behavior violates ACCD policy, procedure, or any local, state or federal law, statute or ordinance, ACCD shall have the discretionary authority to prevent the program from being scheduled for viewing on the TVSA-Education Channel. If such a decision results in a grievance from an education programming producer, ACCD will endeavor to mediate the complaint. In the event that ACCD in its discretion is unable or unwilling to fully address a complaint by a producer, or by a member of the public, based on the terms of ACCD's Agreement with the City (including City

regulations) and past experience, ACCD will forward the complaint to the City's Government and Public Affairs Department for appeal and final determination.

2.8 City's Financial Contribution. PEG funds awarded to Grantee are subject to the City's review and approval based on the following considerations:

2.8.1 The City will review the proposed capital expenditure; may request clarifications; and may amend the budget.

2.8.2 The City will fund the proposed capital expenditure in whole, in part, or not at all; based on policy considerations, documented capital needs, and the availability of PEG contributions.

2.8.3 Any funds received from the City may only be used by Grantee for capital improvements consistent with section 66.006(c) of the Texas Utilities Code - under no circumstances will these funds be used for operational expenses.

2.8.4 The City reserves the right to suspend this Agreement for the misuse of PEG funds by Grantee and request reimbursement of misused funds.

2.8.5 Grantee acknowledges that the City owns all Equipment purchased with PEG funds provided by the City. However, the Grantee is responsible for maintaining the Equipment throughout the useful life of the Equipment. At the end of useful life, the Grantee is responsible for disposing of the Equipment in compliance with its institutional policy regarding equipment disposal.

2.9 Accounting of Capital Equipment. Grantee shall account for Equipment acquisition on a monthly and annual basis for the term of the Agreement.

2.9.1 On a monthly basis during the term of the Agreement, the Grantee will present the City's Director of Government and Public Affairs Department or designee with copies of invoices for any capital Equipment or improvements made during the previous month for reimbursement from allotted PEG funds. The City will reimburse the Grantee within 30 days of invoice submittal to the City for approved Equipment.

2.9.2 On an annual basis during the term of the Agreement, the Grantee will present the City's Director of Government and Public Affairs Department or designee a written accounting of the previous year's capital expenditures based on that year's budget. The accounting will include an affidavit certifying that funds received from the City were used for capital expenditures.

III. TERM OF AGREEMENT

3.1 The initial term of this Agreement shall be for one (1) year upon execution by both Parties.

3.2 This Agreement may be renewed for an additional one (1) year term at the sole discretion of the City. The renewal term shall be on the same terms, conditions, and amount as set forth herein.

**IV.
AMENDMENTS**

4. I This Agreement may be amended at any time by written agreement signed by both Parties.

**V.
TERMINATION**

5.1 This Agreement may be terminated by either Party for any reason upon six months written notice. If the Agreement is terminated for any reason before the term of the Agreement expires, the City may, at its discretion, request return of the Equipment to City.

**VI.
NOTICE**

6.1 Unless specifically provided otherwise, any notice required or permitted to be given under this Agreement shall be given in writing and sent certified mail, return receipt requested, to City or Grantee at the addresses set forth below, or to any other address as may be provided by amendment:

For City:

Jeff Coyle
Director, Government and Public Affairs Department
City of San Antonio
115 Plaza de Armas
San Antonio, Texas 78205
Jeff.Coyle@sanantonio.gov
(210) 207 7910

For Grantee:

**VII.
ASSIGNABILITY**

7.1 Grantee may not assign any interest in this Agreement to another party without the written consent of the City.

**VIII.
ENTIRE AGREEMENT**

8.1 This Agreement supersedes all prior agreements, written or oral, between the City and Grantee and will constitute the entire Agreement and understanding between the Parties with respect to the subject matter of this Agreement.

**IX.
VENUE AND GOVERNING LAW**

9.1 Venue and jurisdiction arising under or in connection with this Agreement shall lie exclusively in Bexar, County, Texas.

9.2 This Agreement shall be construed under and in accordance with the constitution and the laws of the State of Texas.

**X.
SEVERABILITY**

10.1 In the event that any clause or provision of this Agreement is found to be invalid by a court of competence jurisdiction, the remainder of the Agreement shall remain valid and in place.

**XI.
INTERPRETATION, CAPTIONS**

11.1 The Article and Section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent or for any purpose, to limit or define the text of any Article or Section.

**XII.
INDEMNIFICATION AND INSURANCE**

12.1 The Parties recognize that the Texas Constitution prohibits the Parties from indemnifying each other, unless an annual fund is established to cover the future contingency or otherwise allowed by law. Therefore, the Parties agree to self-insure or alternatively carry sufficient insurance coverage to protect either Party from claims related to the other Party's performance or acceptance of the funds under this Agreement.

12.2 The Parties further recognize that as local governments or political subdivisions of the State of Texas they are subject to and shall comply with the applicable provisions of the Texas Tort Claims Act when acting in a governmental capacity, as set out in Civil Practice and Remedies Code, Section 101.001*et. seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death. In the event the Parties are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to either Party under Texas law and without waiving any defenses of the Parties under Texas law.

**XIII.
NON-DISCRIMINATION POLICY**

13.1 The Grantee agrees to comply with the City's *Non-Discrimination Policy*, which is contained in Chapter 2, Article X of the City Code; and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

**XIV.
SIGNATURES**

14.1 IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement in duplicate, on the dates indicated herein.

CITY
City of San Antonio


By: _____

(Name)

(Title)

Date: _____

GRANTEE
University of the Incarnate Word

By:  _____

Douglas B. Endsley

Vice President of Business & Finance

Date: 2-21-2020