

## **LEASE AND PROFESSIONAL SERVICES AGREEMENT**

**Duluth-Superior Public Access Community Television, Inc.**

**&**

**City of Duluth**

THIS AGREEMENT is entered into by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota (“City”), and Duluth-Superior Public Access Community Television, Inc., a Minnesota non-profit corporation (“PACT”).

WHEREAS, the provisions of the current cable communications Franchise Ordinance (City of Duluth Ordinance No. 9775, Duluth City Clerk File No. 06-013-O) and agreement with Charter Communications dated May 8, 2006 provide that the City may contract with a nonprofit organization such as PACT to administer and operate community public access channels; and

WHEREAS, PACT has been staffing and administering cable television public access channels for the City pursuant to a professional services agreement between the parties; and

WHEREAS, City desires to have PACT provide information, training, consulting services and equipment access to local community organizations, residents and City employees in the production of public access community television programs and communication.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

### **I. SERVICES**

- A. PACT will produce live cablecasts of all public portions of regular City Council meetings, as “regular meeting” is defined by Minn. Stat. § 13D.04, Subd. 1. PACT will produce live cablecasts of all public portions of special City Council meetings if given at least four (4) calendar days’ written or verbal notice of said special meeting as “special meeting” is defined by Minn. Stat. 13D.04, Subd. 2. PACT will also produce live cablecasts of all public portions of City Council agenda sessions. All public portions of City Council meetings will be carried and provided for by PACT on public access channels. Within five (5) calendar days of each City Council meeting, PACT will deliver one (1) DVD copy of the public portions of each such meeting to City’s Main Library.
- B. Upon request from the City Chief Administrative Officer or his/her designee (collectively hereinafter “City CAO”), PACT will produce live cablecasts of other special City Council meetings, “Committee-of-the-Whole” meetings, budget meetings, and other meetings or events related to City business held in the City

- Council Chambers, 3<sup>rd</sup> Floor, Duluth City Hall. The City CAO shall inform PACT verbally or in writing of the meeting requested for cablecast no later than four (4) calendar days before the meeting is scheduled to begin. PACT may produce delayed cablecast upon approval of CAO. Delayed cablecasts of meetings or events will be carried by PACT on the public access channels within four (4) calendar days of such meeting. Within five (5) calendar days of each such meeting or event, PACT will make deliver one (1) DVD copy of said meeting to City Main Library.
- C. PACT produce the City State of the City Address and at least twelve (12) social media programs during the period of this Agreement. Said social media programs will be requested and approved by City CAO.
  - D. PACT will comply with and enforce the City's Rules Administering Public Access Channels (hereinafter "Rules"), which are attached hereto and incorporated by reference into this Agreement as Exhibit A.
  - E. PACT will administer scheduling of all programs on the public access channels 24 hours a day, seven days a week, 365 days of the year. PACT will cablecast, communicate, and/or "air" all programs provided by individuals, institutions, and organizations in compliance with the Rules.
  - F. PACT will encourage, promote, and provide information about community access opportunities and procedures to City employees, community members, and/or organizations.
  - G. No less than monthly, PACT shall provide in-person training to community members and/or organizations in the use of production equipment. PACT may charge a fee for such training classes, but said fee shall also provide membership to PACT. PACT will timely assist PACT members with video production questions and development of their programs. PACT will certify persons who have demonstrated proficiency with video equipment. PACT will provide certified users access to video production equipment on a first-come, first-served basis for the purpose of producing programs to be provided via cablecast on or more video public access channel.
  - H. At least four (4) times per calendar year, PACT shall provide in-person training sessions to City employees and/or representatives selected by the City CAO. Such sessions shall cover opportunities for program production and messages, equipment reviews, special training sessions, and may include on-site assistance with productions of City meetings and hearings.
  - I. PACT will reasonably assist City Departments, Divisions, and/or Offices produce unscheduled video and audio production services.
  - J. City shall make available to PACT City-owned video equipment for community access television. PACT shall manage the video equipment on City's behalf for the purpose of providing production equipment to producers of programs on the community access channels, for cablecasting programs, displaying community messages, and for duplicating community access videotapes. PACT shall communicate and cooperate with City-selected video equipment maintenance vendors. PACT shall directly supervise scheduled and unscheduled maintenance of City's video equipment. PACT shall limit use of City's equipment to PACT staff,

- City employees authorized by the City CAO, and PACT members trained and certified by PACT in the use of production equipment.
- K. Upon termination or expiration of this Agreement, PACT agrees to surrender possession of all equipment to City in as good of condition and state of repair as said equipment was in at the time PACT took possession, reasonable wear and tear excluded.
  - L. All personal property remaining on Leased Premises upon expiration of Agreement Term or after fourteen (14) days of early termination, whichever occurs first, shall become exclusive property of City.
  - M. Upon expiration or termination of this Agreement, all buildings, fixtures, and improvements, if any, to the Leased Premises shall be deemed to be exclusive property of the City.
  - N. PACT shall update and inform City's Cable Committee of pending federal and state legislative action, work with the City's Cable Committee in the City's strategic planning for the transition from analog to digital technology, and recommend equipment acquisition purchased with the cable franchise PEG fees.
  - O. PACT shall work with City on modernization and improvements to City Council Chambers.
  - P. PACT shall provide a message service for community organizations, institutions, and the City to be displayed on a channel separate from the two video public access channels. PACT shall inform and instruct City employees regarding the opportunities and procedures for submitting messages.
  - Q. PACT shall provide outreach services to local non-profits for "Express Yourself" programs and operation and development of the City's message board character generators.
  - R. PACT shall provide all services to be performed by the City pursuant to the City's Channel Sharing Agreement dated May 10, 2006, with the City of Superior, Wisconsin, and its successor agreements, including enabling public access television programming by City of Superior to be viewed on Channels 180 (formerly Channel 7), 188 (formerly Channel 16), and 189 (formerly Channel 20), or such successor channel as the parties may agree, to all cable subscribers in Duluth as well as sending Duluth public access television programming signal for display on one or more channel in Superior.

## **II. LEASED PREMISES**

- A. City agrees to lease to PACT exclusive use of Room 328, Duluth City Hall, 411 W. 1<sup>st</sup> Street, Duluth, MN 55802 (hereinafter the "Leased Premises").
- B. PACT is taking the Leased Premises "as is" in its present physical condition. City makes no warranty, either express or implied, that the Leased Premises is suitable for any purpose.
- C. In addition to any other costs and charges set forth in this Agreement, PACT shall bear, and promptly pay, on or before the due date, all other costs, fees, and charges of any kind whatsoever arising out of the use or occupancy of the Leased Premises.

### **III. TERM**

This Agreement shall be deemed effective January 1, 2017, and shall remain in effect until the end of the day on December 31, 2017, unless terminated earlier as set forth herein.

### **IV. LEASE PAYMENT**

PACT shall pay City **\$7,000** for exclusive use of Leased Premises. The consideration for the Leased Premises to City shall also be the public benefit provided by PACT's services.

### **V. PAYMENT FOR SERVICES**

City shall pay PACT **\$189,000** for services. From said payment for services, City shall reduce payment by Lease Payment of **\$7,000**. The City shall make **\$182,000** in net payment to PACT in twelve (12) equal monthly installments from General Fund 110-700-1414-5441.

### **VI. EARLY TERMINATION.**

- A. Without Cause. City may terminate this Agreement with at least thirty (30) days' written notice to PACT.
- B. For Cause. City may terminate this Agreement for the material breach by PACT of any provision of this Agreement, including its exhibits, if such breach is not cured to the satisfaction of City within thirty (30) days of delivery of a written notice by City (or such longer time as specified in the notice). The notice shall identify the breach and the necessary actions to remedy the breach. City may, in addition to any other remedy it may have, recover from PACT all damages incurred by reason of the breach, including the cost of recovering the Leased Premises.
- C. Immediately. City may terminate or suspend this Agreement immediately if City believes in good faith that the health, welfare or safety of Leased Premises' occupants or neighbors would be placed in immediate jeopardy by the continuation of PACT's operations.

### **VII. COPYING AND PRINTING SERVICES**

City shall allow PACT reasonable use of its copy and printing services at no charge.

### **VIII. PROVISION AGAINST ASSIGNMENTS, TRANSFERS, OR CHANGE IN IDENTITY**

- A. The parties hereto acknowledge that City is relying upon the qualifications and identity of PACT to operate and maintain public programming on the Leased Premises. Therefore, PACT represents and agrees for itself, its successors, and assigns that it has not made or created, and will not make, create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien, or power of attorney, nor has it nor will it allow any change in its status or character that would result in its loss of tax exempt status under Section 501(c)(3) of the Internal Revenue Code nor any change of control of Clinic, and has not or will not otherwise transfer in any way or any portion of the Leased Premises, or this

Agreement, and/or any other contract or agreement entered into in connection with carrying out its obligations hereunder.

- B. Unless approved in writing by City, PACT agrees it shall neither assign nor transfer any rights or obligations under this Agreement.

#### **IX. INDEPENDENT RELATIONSHIP**

- A. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting PACT as an agent, representative or employee of the City for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. PACT and its employees shall not be considered employees of the City, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of PACT's employees while so engaged, and any and all claims whatsoever on behalf of PACT's employees arising out of employment shall in no way be the responsibility of City. PACT's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay, and Minnesota Public Employee Retirement Association contributions. Further, City shall in no way be responsible to defend, indemnify or save harmless PACT from liability or judgments arising out of PACT's intentional or negligent acts or omissions of PACT or its employees.
- B. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.
- C. PACT expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

#### **X. RECORDS RETENTION**

PACT agrees to maintain all books, records, documents, and other evidence pertaining to the costs or expenses related to the Leased Premises and this Agreement during this Agreement and for six (6) years after Agreement termination or expiration.

#### **XI. INSURANCE**

- A. PACT shall procure and maintain continuously in force a policy of insurance covering all of its activities on the Leased Premises. A Comprehensive General Liability Insurance policy shall be maintained in force by PACT throughout the life of this agreement in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) for bodily injuries and in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for property damage or One Million Five Hundred Thousand Dollars (\$1,500,000.00) single limit coverage per occurrence. Such coverage shall include all PACT activities occurring on or within the Leased Premises whether said activities are performed by employees or agents under

contract to PACT. Such policy of insurance shall be approved by the City Attorney and shall contain a condition that it may not be cancelled without thirty (30) days' written notice to the City. The City shall be named as an additional insured on said policy of insurance required by this paragraph.

- B. PACT shall procure and maintain continuously in force a policy of property insurance covering the Lease Premises, including all fixtures, equipment, and machinery, on the Leased Premises. The Leased Premises shall be insured to the full replacement value thereof against all risk of direct physical loss, except that such insurance may provide for a deductible amount not to exceed Fifty Thousand and no/100ths Dollars (\$50,000.00) per occurrence. For the purposes hereof, "all risk" means insurance equivalent in scope to protect against all risks of direct physical loss ordinarily insured against in the region. PACT hereby waives any and all claims or causes of action against City for damages caused by an insured peril hereunder, except such rights hereinafter set forth to an interest in the insurance proceeds payable in the event of such loss.
- C. In the event the Leased Premises or any portion thereof is destroyed by fire or other casualty, PACT shall forthwith repair, reconstruct, and restore the Leased Premises to substantially the same scale and condition, quality, and value as existed prior to the event causing such damage or destruction, and to the extent necessary to accomplish such repair, reconstruction, and restoration, PACT shall apply the proceeds of any insurance received by PACT to the payment or reimbursement of the costs thereof. PACT shall, however, complete the repair, reconstruction, and restoration of the Leased Premises whether or not the proceeds of any insurance received by PACT are sufficient to pay for such repair, restoration, and reconstruction.
- D. PACT shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance.
- E. PACT shall provide to City Certificates of Insurance evidencing such coverage with 30-day notice of cancellation, non-renewal, or material change provisions included. The City does not represent or guarantee that these types or limits of coverage are adequate to protect the PACT's interests and liabilities.
- F. The City reserves the right to require PACT to increase the coverages set forth above and to provide evidence of such increased insurance to the extent that the liability limits as provided in Minn. Stat. § 466.04 are increased.
- G. The City does not intend to waive any legal immunities, defenses, or liability limits that maybe available.
- H. When using the "Accord" Certificate form cancellation provisions, the words "endeavor to" on- Line 2 must be deleted. As an additional insured under the contract, the City has contractual rights far exceeding that of a certificate holder. Therefore, additional named insured endorsement shall read as follows: "This policy insures the named Insured and the City of Duluth and will be primary and not contributory with City of Duluth coverage." The City of Duluth is an additional insured not subject to the "other insurance" condition or other policy terms which conflict with the agreement between the named insured and the City of Duluth.

- I. The 2004 edition of ISO Additional Insured Endorsement CG 2010 is not acceptable. If the CG 2010 is used, then it must be a pre-2004 edition.
- J. The City shall not be liable to PACT for any injury or damage resulting from any defect in the construction or condition of the Leased Premises, nor for any damage that may result from the negligence of any other person whatsoever.

**XII. HOLD HARMLESS AND INDEMNIFICATION**

- A. PACT hereby agrees to indemnify, save harmless, and defend the City and its officers, agents, servants, and employees from and against any and all claims, suits, loss, judgments, costs, damage, and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of the City or PACT, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of PACT arising out of, related to or associated with the use, management, maintenance or operation of the Leased Premises by PACT or performance of its obligations under this Agreement.
- B. PACT will indemnify the City for any damage to the Leased Premises.

**XIII. GOVERNMENT DATA PRACTICES**

- A. All data collected, created, received, maintained or disseminated for any purpose by the parties because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. PACT shall comply with the Minnesota Government Data Practices Act. PACT agrees to hold the City, its officers, and employees harmless from any claims resulting from PACT's failure to comply with this law.
- B. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data by PACT. If PACT receives a request to release the data referred to in the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, PACT must immediately notify the City and consult with the City as to how PACT should respond to the request. PACT agrees to hold the City, its officers, and employees harmless from any claims resulting from the PACT's unlawful disclosure or use of data protected under any and all state and federal laws.

**XIV. INCIDENT REPORTS.**

PACT shall promptly notify the City in writing of any incident of injury or loss or damage to the Leased Premises, PACT's employees, or any PACT participants or invitees occurring on or within Leased Premises during this Agreement. Such written report shall be in a form acceptable to the City's Claims Investigator and Adjuster.

**XV. REPORTING & COMPLIANCE WITH LAWS.**

- A. PACT shall make its services available to all users and shall not discriminate on the basis of race, color, creed, national origin, sexual orientation, disability, sex, religion, or status with regard to public assistance, and shall not violate any federal, state or local civil rights law, rule or regulation in the use of the Leased Premises.

- B. PACT shall comply with all Minnesota Workers' Compensation laws in the utilization of all employees employed on the Leased Premises.
- C. Clinic shall procure at its sole expense all licenses and permits necessary for carrying out the provisions of this Agreement.
- D. PACT shall procure at its sole expense all licenses, permits, and consents to the extent necessary, desirable, and lawfully required to operate its Government Program.
- E. PACT agrees that during the term of the Lease, it will operate the Government Program in full compliance with all application laws, rules, and regulations of the State of Minnesota and any other regulatory or licensing authority or agency. Furthermore, on or before December 31, PACT shall provide to City an annual program evaluation report of the operation of its services for the preceding calendar year and a full financial report and budget adopted by PACT for the calendar year in which it is submitted showing anticipated costs and revenues for said operation for the year of submission.

#### **XVI. COMMUNICATIONS**

The parties agree that a full and complete exchange of information is necessary for a successful relationship, and each party agrees to communicate openly and regularly with the other with regard to any services or other activities contemplated under this Agreement.

#### **XVII. NOTICES**

Unless otherwise provided herein, notice to the City or PACT shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

Chief Administrative Officer  
City Hall Room 402  
411 West First Street  
Duluth, Minnesota 55802

DULUTH-SUPERIOR PUBLIC ACCESS COMMUNITY TELEVISION  
Room 328 City Hall  
411 West First Street  
Duluth, Minnesota 55802

#### **XVIII. CITY ACCESS AND INSPECTION**

- A. Upon reasonable notice, PACT shall permit the City designees reasonable access the Leased Premises. PACT shall not otherwise unreasonably prohibit or inhibit City designees access to any portion of the Leased Premises.

- B. Upon reasonable notice, PACT shall allow the City and State of Minnesota or both to inspect the Leased Premises for the purpose of ensuring compliance with all laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and the City of Duluth.

**XIX. FORCE MAJEURE**

Neither City nor PACT shall be considered in default or breach of any of the terms under this Agreement in the event of forced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes, or embargoes. In the event of any such delay, any time for completion of delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

**XX. TAXES**

PACT hereby agrees to pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of PACT's lease or operations of the Leased Premises, including any real property and sales taxes if applicable to PACT's operations of the Leased Premises. It is further agreed that City may pay the same on behalf of PACT and immediately collect the same from PACT, or offset against any amount owed to PACT by City under this Agreement. PACT shall further be obligated to collect and/or pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date.

**XXI. SMOKING, TOBACCO & ALCOHOL USE PROHIBITED**

PACT shall prohibit any person from smoking or using tobacco products or alcohol on Lease Premises.

**XXII. ALTERATIONS AND IMPROVEMENTS**

- A. PACT may, at its sole cost and expense, make suitable improvements or alterations to the Leased Premises upon advance written approval from the City's Property and Facilities Manager. All such improvements (excluding appliances and equipment plugged into an electricity source) shall become the property of the City. Prior to commencing any improvements or alterations, PACT shall submit to the City a Project Proposal Request along with detailed plans. These documents shall be submitted to the City at least forty-five (45) days before the planned commencement of the work. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to state law and the Duluth City Code.
- B. PACT agrees that not less than thirty (30) days prior to commencement of any construction, alteration or improvement on said Leased Premises, PACT will provide the City with sufficient proof of required insurance, including worker's compensation. Such proof of insurance must be approved by the City Attorney before the commencement of any construction hereunder.

### **XXIII. GENERAL PROVISIONS**

- A. Prior to execution of this Agreement by the City, PACT shall provide evidence that it is an entity legally capable of entering into obligations of a contract and it is a non-profit organization currently in good standing with the Minnesota Secretary of State.
- B. The rights of PACT to occupy, use, and maintain said Leased Premises shall continue only so long as all of the undertakings, provisions, covenants, and conditions herein contained are on its part complied with promptly.
- C. The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation that may arise under the Agreement will be in and under those courts located within St. Louis County, Minnesota.
- D. The waiver by the City or PACT of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.
- E. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.
- F. 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.
- G. This Agreement is to be construed and understood solely as an agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.
- H. This Agreement, including exhibits, constitutes the entire agreement between the parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

**CITY OF DULUTH**

**DULUTH-SUPERIOR PUBLIC ACCESS  
TELEVISION, INC.**

By: \_\_\_\_\_  
Mayor

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

Printed Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Its: \_\_\_\_\_

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

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

Countersigned:

---

City Auditor

Approved as to form:

---

City Attorney

## **EXHIBIT A**

### **RULES ADMINISTERING PUBLIC ACCESS CHANNELS Amended January 2017**

#### **A. PUBLIC ACCESS CHANNELS**

1. Public access channels are specifically designated channels on the Duluth cable television system that are available for use by the general public and local government. The following public access channels are in Duluth: Channels 180 (formerly Channel 7), 14 (or its successor), 188 (formerly Channel 16), and 189 (formerly Channel 20). To the extent possible, all governmental programming, both live and replay, is shown on Channel 180. Channel 180 is also used for general programming. Channels 188 and 189 are for general programming. Channel 14 (or its successor) is a revolving message board which displays character generated messages and announcements of public interest.
2. The public access channels are administered for the City of Duluth by Duluth-Superior Public Access Community Television, Inc. (PACT). PACT is a nonprofit corporation whose purpose is to encourage and enable the general public to use the public access channels. There is an educational access channel in Duluth that is not administered by PACT, and it is not subject to these rules.
3. PACT will provide programming schedules of all its access channel shows to local media outlets, and will also post these schedules on each of the public access channels.

#### **B. CHANNEL TIME**

1. Channels 180 (formerly Channel 7), 14 (or its successor), 188 (formerly Channel 16), and 189 (formerly Channel 20) are available for use by the general public and local government on a first-come, first-served, non-discriminating basis, but subject to prioritization set forth in these rules.
2. No charge will be made for programming or messages cablecast over the public access channels.

#### **C. RESERVING TIME FOR PUBLIC AND GOVERNMENT VIDEO PROGRAMMING ON PUBLIC ACCESS CHANNELS**

1. PACT is solely responsible for scheduling time on all four public access channels.
2. Requests for cablecast time slots for video programs (live or recorded) shall be requested in person or by calling PACT at (218) 723-3686 no later than four days prior to the requested cablecast date.

#### D. SCHEDULING CABLECAST TIME FOR PROGRAMS

1. For purposes of these rules:
  - a. **Resident** is defined as:
    - 1) any person whose residence is located in, or who works in or who attends school in the resident area;
    - 2) any group of two or more persons from which a significant portion of its membership resides in the resident area; or
    - 3) any institution or business which is located in the resident area.
  - b. **Resident area** is defined as that geographic area which includes the City of Duluth, St. Louis County, the City of Superior, and Douglas County.
2. Access time shall be available on a first-come, first-served basis, but subject to the priorities set forth in this section and following the procedures set forth in Section F.
3. First priority for scheduling time on Channels 180 (formerly Channel 7), 188 (formerly Channel 16), and 189 (formerly Channel 20) will be given to programs:
  - a. Which are produced by residents,
  - b. Of a subject having significant local interest and submitted by residents; or,
  - c. Which have been recorded or will be produced live within the resident area.
4. Second priority for scheduling time on Channels 180 (formerly Channel 7), 188 (formerly Channel 16), and 189 (formerly Channel 20) will be given to all other programs.
5. Programs submitted for cablecast will be cablecast once. Repeat cablecasts may be requested by the producer and/or submitter of the program(s) in Section 3 and will be granted subject to available cablecast time. Programs scheduled per Section 4 will be cablecast on 189 (formerly Channel 20).
6. Programs of the second priority (Section 4) will be scheduled on 189 (formerly Channel 20) in a manner so that the total number of such programs will not exceed 20% of the total programs cablecast on 189 (formerly Channel 20) in any given week.
7. PACT will attempt to satisfy requests for the cablecast of programs at specific times on specific dates, depending on availability of channel time and cablecast equipment.
8. Regularly scheduled series time slots will be allocated for a maximum of one year. If a person submitting or producing a series fails to submit more than two programs in the series, the series' time slot may be reassigned. Other rules for scheduling series may be promulgated by PACT through policies which shall be available to producers and submitters of series programs.

## E. VIDEO PROGRAM CONTENT

1. The content of public access community television programs must be noncommercial (no material designed or tending in part in whole or in part to promote the sale of commercial products or services, including political advertising by or on behalf of candidate(s) for public office or on behalf of ballot questions, which, if broadcast on commercial television, would be required to include a "paid advertisement" announcement pursuant to Minnesota Statutes 211B.04).
2. Public access community television must not contain obscenity as defined by federal, state or local law, or material otherwise prohibited by federal, state or local law.
3. Community television programs may seek funding for, or sponsorship of, their programs from private and/or public sources. Credit to funding sources may only be given at the beginning and ending of the program and may say only that assistance or support was provided by the funding source. A character-generated name or logo may appear, but no address or telephone numbers. Audio is limited to: identification of the program or series supporter by name, but no information about the supporters' products or services is allowed.
4. PACT will not edit or alter in any way the content of any program submitted to it for cablecast.
5. Videotaped and live programs must include opening and closing credits identifying the program's title and producer.

## F. SUBMITTING TAPES OR PREPARING FOR LIVE CABLECAST

1. The producer or submitter of a videotaped program scheduled for cablecast must complete and submit with the tape a "Cablecast Submissions Form" no later than two days prior to the cablecast. Exceptions may be made for programs of timely events such as sporting events or public meetings.
2. The producer or submitter of a live program must complete and submit a "Cablecast Submission Form" prior to the start of the live program.
3. The "Cablecast Submission Form" must include program title, producer or submitter, and any other information required by PACT to ensure that rules and policies have been followed, including statements from the producer/submitter that prohibited program content is not included in the program. The form must be signed by the producer or submitter. Failure to sign the form, or submitting false information on the form are grounds to refuse cablecasting of the program.
4. Tapes submitted for cablecast must be in S-VHS, VHS or DVD format with one program per tape, and must comply with any other rules promulgated

by PACT, which rules shall be available to any producer or submitter upon request.

5. Following cablecast of the tape, the program producer or submitter is responsible for picking up any videotape. If the tape is not picked up within 45 days of the last cablecast date, PACT may dispose of or recycle the videotape.

#### G. MESSAGE SERVICE

1. Channel 14 (or its successor) will display character generated messages limited to the following categories:
  - a. Public access channel schedules of programs or other messages relating to public access community television,
  - b. Government announcements, information and schedules,
  - c. Community events, schedules and announcements of public interest from nonprofit organizations, or
  - d. Information about cable system service programs, outages and repairs submitted by the cable company.
2. These messages must be noncommercial (no material designed or tending in whole or in part to promote the sale of commercial products or services, including political advertising by or on behalf of candidate(s) for public office or on behalf of ballot questions). These messages may not contain obscene material as defined by federal, state or local law, or material otherwise prohibited by federal, state or local law.
3. Channel 14 (or its successor) will display these messages 24 hours a day except in case of emergency situations.
4. PACT may not edit messages submitted.

#### H. FILE OF CABLECAST SUBMISSIONS

1. PACT will keep a file of Cablecast Submission Forms for six (6) years following the date the form is signed, and will allow public inspection of these files during normal business hours.
2. PACT will keep a file of cablecast logs for two years indicating which programs have been cablecast, and will allow public inspection of these files during normal business hours.

#### I. EXCEPTIONS

1. Exceptions to these rules may be granted at the sole discretion of PACT but only for good cause. Good cause shall include an emergency, the occurrence of an unexpected event of significant public interest, and acts of God. Causes attributable to the producer or presenter of the program shall not be considered good cause.

2. When requested, exceptions will be stated in writing with an explanation of the reason for the exception. Exceptions and such explanations will be kept on file as in Section H.1 above.
3. Anyone denied an exception may apply for and receive a hearing before the Executive Director of PACT and/or the PACT Board of Directors to reexamine the matter.

J. DISTRIBUTION AND AMENDMENT OF OPERATING RULES

1. PACT will make available a copy of these rules and any policies or rules referenced in these rules at the PACT offices to any person making the request.

K. MAKE-GOOD POLICY

1. PACT reserves the right to change the cablecast schedule for emergency or other good cause as defined in Section I.1.
2. If PACT fails to cablecast a program, or changes the schedule as defined in Section K.1., it will attempt to contact the producer or submitter regarding rescheduling and agree upon a new cablecast date, publicizing the new date by a message service channel.

L. STUDIO USE

1. The times of operation of the studio are on a first-come, first-served basis to PACT certified users who have requested the studio for production of community access television programs. It is not available for commercial use.
2. Studio equipment (one camera, lighting and microphone) plus technical personnel will be made available by appointment for the purpose of recording and cablecasting special presentations. These special presentations will not exceed five minutes in length per week per producer, and the studio equipment referenced will be provided at no charge.