

## INTERIM COMMUNITY MEDIA CENTER FACILITY USE AGREEMENT

This Community Media Center Use Agreement (the "Agreement"), effective July 1, 2018 through June 30, 2019, is entered into by and between the City of Hayward ("City"), a municipal corporation of the State of California, and Chabot-Las Positas College Community District ("Chabot"), a California community college district, who agree as follows:

### RECITALS

WHEREAS, Comcast and AT&T ("State Franchisees") have each been granted a state franchise to provide video services in the City of Hayward pursuant to the California Digital Infrastructure and Video Competition Act ("DIVCA"). In the past, pursuant to obligations contained in the now expired local franchise agreement between the City and Comcast, public access equipment, facilities, and services were provided by Comcast or its predecessors-in-interest that owned the cable system serving Hayward. Pursuant to state and federal law, a government access channel is and has been managed by the City of Hayward, and an educational access channel is and has been managed by Chabot.

WHEREAS, as a result of DIVCA, Comcast no longer has the direct responsibility for providing public access equipment, facilities, and services. However, DIVCA provides that certain channel capacity and funding shall be provided by State Franchisees for public, educational, and government ("PEG") access.

WHEREAS, the City and Chabot are collaborating to establish a nonprofit community access organization ("CAO") that will manage PEG access channels and operate a Community Media Center ("CMG") to be located on the Chabot College campus in Hayward, California. The City and Chabot are entering into a one-year agreement, pursuant to which Chabot will make its studio and other facilities available for public and government access purposes.

WHEREAS, Chabot controls that certain real property commonly known as the Television Studio, located at 25555 Hesperian Boulevard, Building 100, Rooms 124A, 124B, and 124D, Hayward, CA. 94545 (referred to herein as the "Property").

WHEREAS, Chabot wishes to enter into this Agreement with the City, pursuant to which a portion of the Property (see Exhibit A) will serve as the CMC for PEG access production and programming.

NOW THEREFORE, Chabot and the City agree as follows:

### AGREEMENT

- 1) Term of Agreement. Chabot hereby grants to the City the right to occupy and use the Interim CMC for PEG access production and programming for a period of one year, commencing upon the effective date of this Agreement.
- 2) Rent. The City shall pay Chabot monthly rent ("Rent") for the Interim CMC in the amount of \$9,750.00 (\$117,000.00 per annum).

The Rent shall be inclusive of utilities, janitorial services, maintenance services, telephone, Internet, video and equipment use, and PEG services.

The initial Rent shall be due and payable upon the effective date of this Agreement and shall thereafter be due and payable on the first day of each month. If this Agreement is terminated, the monthly rent shall be pro-rated to the date City surrenders possession of the Property to Chabot.

3) Use: The Property shall be used as a CMG for operating and conducting therein a PEG access production and programming facility. The CMG shall be equipped with video and electronic media production equipment consistent with that identified in Exhibit B for use by and the benefit of the residents of the City of Hayward, the students and staff served by Chabot and other educational institutions in the City of Hayward, representatives of local governmental agencies that serve Hayward and other eligible users as defined by the City (collectively the "Eligible Interim CMG Users"). Chabot shall not be liable for an interruption or failure of the above facilities which occur for reasons other than the gross negligence or willful misconduct of Chabot, its agents or employees. Neither Chabot nor City shall not use or allow the Interim CMG to be used in violation of any law or ordinance. The CMG shall be maintained by Chabot in a clean and sanitary manner and in compliance with all applicable laws, ordinances, rules, and regulations.

4) Access to the CMG. The CMG shall be used for both PEG access, as set forth in Paragraph 3 above, and Chabot teaching purposes. If City personnel are assigned to the Interim CMG, they shall be permitted access to the Property and the TV Studio during regular college business hours, except during campus planned closures and/or related safety needs and/or emergency.

City personnel and Eligible Users will demonstrate proficient use of facility equipment and receive three hours of safety and use training prior to access. The opportunity to demonstrate proficiency and receive safety and use training will be given on an individual basis as requested. Access will be established based on the availability of the TV Studio so as not to interfere with Chabot's use of the TV Studio for instructional and other academic purposes, which take priority. The TV Studio shall remain closed to Eligible Users on holidays, but designated City personnel shall have access to the Property and the TV Studio on holidays if necessary for the operation of the TV Studio. City personnel and all users of the TV Studio shall follow and be subject to the security procedures and other rules for use of the Property as set forth in Chabot College Policies and Procedures and East Bay Community Media Center Community Access Rules and Regulations (Exhibit C).

5) Hours of Operation. Eligible CMG Users shall be permitted access to the Property approximately 30 hours per week, Monday through Saturday (excluding holidays), with specific hours to be determined. Some Sunday access may be scheduled for eligible CMG users by Chabot in consultation with the City. Chabot personnel shall be present at all times the CMG is open to Eligible CMG Users. Nothing in this Agreement requires the City to assign personnel to staff the CMG.

6) Utilities. Chabot shall provide and be responsible for all utility charges including gas, electricity, telephone, garbage, janitorial services, and other public utilities for the CMG during the term of this Agreement. Access to utilities (e.g. telephone, etc.) may be limited by Television Station personnel and/or other Chabot officials.

7) Security System. The parties agree to cooperate and coordinate with each other regarding the use of the Property's security system within the CMC.

8) Repairs, Maintenance and Upkeep. During the term of this Agreement and any renewal extension thereof, Chabot shall keep the exterior roof, interior and exterior painting and cosmetic appearance, electrical system, plumbing, heating, ventilating, air conditioning, structural supports, and foundation of the building of the Property and the Interim CMG in good repair at its own cost and expense. City agrees, however, that its personnel shall:

- a. Place all waste in the waste receptacles provided by Chabot for removal from the premises;

- b. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances, including elevators in the premises;
- c. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the Property, CMG, or other premises of Chabot, or knowingly permit any person to do so;
- d. Conduct itself in a manner that will not disturb Chabot, its students, faculty, staff and their business invitees of peaceful enjoyment of the Chabot premises;
- e. Make no alterations, changes, repairs or replacements in the buildings of the Property and the CMG, or the furniture or furnishings contained therein, without obtaining the prior written consent of Chabot; and
- f. Enforce Chabot's no smoking policy within the building(s) subject to this Agreement.

Should City unreasonably fail to comply with any or all of the foregoing conditions, Chabot may immediately terminate this Agreement.

9) Surrender. On termination of this Agreement as hereinafter provided, the City shall promptly surrender occupation of that portion of the Property designated for the CMG in as good condition as it was on the date of this Agreement, reasonable wear and tear and damage by the elements or fire or any casualty beyond the control of the City excepted.

10) Parking. Eligible CMG Users will comply with all Chabot College parking regulations and fees.

11) Accessibility. The CMG shall be accessible to Eligible CMG Users at all times during which the Interim CMG is open for operation pursuant to Paragraph 8 above.

12) Signs. Chabot shall erect and maintain signage which clearly identifies the CMG location to Eligible CMG Users.

13) Liability and Indemnification. Governmental Code Section 895.2 imposes certain tort liability jointly upon public agencies solely by reason of such public agencies being parties to an agreement as defined in Government Code Section 895. Therefore, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, each assumes the full liability imposed upon it by any of its officers, agents, representatives or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve this purpose, each party shall be responsible for any and all claims, demands, loss or liability as a result of or arising out of the negligence of that party, its officers, agents, employees, or guests. In the event that any claim, demand, loss or liability arises out of the negligence of both parties; each party shall be responsible based upon its proportionate share of negligence. The City shall defend, indemnify, and hold harmless Chabot, its officers, employees and agents from and against all claims, damages, losses and expenses, including attorney fees and costs arising out of the use of the CMG which may be caused in whole or in part by any act or omission of the City, or which otherwise may be incurred by Chabot solely by virtue of Governmental Code Section 895.2. Chabot shall likewise defend, indemnify, and hold harmless the City, its officers, employees and agents from and against all claims, damages, losses and expenses, including attorney fees and costs arising out of the use of the CMG which may be caused in whole or in part by any act or omission of the Chabot, or which otherwise may be incurred by City solely by virtue of Governmental Code Section 895.2.

14) Insurance. Without limiting the above indemnification provision and during the term of this Agreement, the parties shall obtain and maintain, and shall require any subcontractors to obtain and maintain, liability insurance coverage as provided for below.

During the term of this Agreement, each party shall list the other party as additional named insured on its respective comprehensive liability insurance policy insuring the City and Chabot against claims and liabilities arising out of the operation, condition, use, or occupancy of the Property for the purposes of the CMC and all areas appurtenant thereto, including parking areas. Each party shall list the CMC as a sponsored activity of that-party under its respective insurance coverage.

- a. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) for bodily injury or death and property damage as a result of any one occurrence and a two million dollar (\$2,000,000) general aggregate policy. Upon the effective date of this Agreement, each party shall deliver to the other party a certificate of insurance evidencing the existence of the policy required hereunder and stating that such policy shall:
  - i. State the coverage is primary to and not contributing with any other insurance or self-insurance programs maintained by the other party, and shall be provided and maintained at the party's own expense.
  - ii. Contain a cross liability endorsement; including a separate endorsement naming the other party as an additional insured.
  - iii. At least thirty (30) days prior to the expiration of such certificate, and every such subsequent certificate, each party shall deliver to the other a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described in this paragraph.
- b. Not be canceled or altered without thirty (30) days prior written notice to the other;
  - i. State the coverage is primary to and not contributing with any other insurance or self-insurance programs maintained by the other party, and shall be provided and maintained at the party's own expense.
  - ii. Contain a cross liability endorsement; including a separate endorsement naming the other party as an additional insured.
  - iii. At least thirty (30) days prior to the expiration of such certificate, and every such subsequent certificate, each party shall deliver to the other a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described in this paragraph.
- c. The parties mutually agree to notify one another of any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against any of the parties, and, of any actual third party claim or lawsuit arising from or related to services under this Agreement
- d. Each party shall obtain and maintain Workers Compensation Insurance for its respective employees and agents during the coverage term of this Agreement in conformance with the laws of the State of California and applicable federal laws. Both parties agree to provide one another a workers compensation certificate of insurance upon request.

15) Property Insurance. At its own cost and expense during the term of this Agreement, Chabot shall keep its property located in the CMC insured for its full replacement cost against loss or destruction by fire and the perils, including special causes of loss, commonly covered under the standard special form policy in the county where the Property is located. Upon the effective date of this Agreement, Chabot shall provide the City with a certificate of insurance indicating the existence of insurance as described herein. Further, should any of the subject policies be canceled before the expiration date of said certificate, Chabot shall require its insurer to mail written notice to the City; provided, however, failure to mail such notice shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

16) Destruction. Should the CMC area of the Property be damaged or destroyed during the term of this Agreement, the party responsible for same shall promptly repair or replace the damaged or destroyed portions to the extent not covered by proceeds of any applicable insurance of the responsible party. Should any equipment be destroyed, either party shall replace the equipment to

the extent not covered by proceeds of any applicable insurance of the responsible party.

17) Licenses and Permits. City represents and warrants to Chabot that, to the extent it is required to do so, City and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to conduct the activities contemplated in this Agreement. City represents and warrants to Chabot that City and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to conduct the activities contemplated in this Agreement.

18) Compliance with Law. Each party agrees that it will meet all Federal, State, County and City laws and regulations so far as applicable to its obligations under this Agreement. Each party further agrees that it will comply with all reasonable orders and directives of appropriate agencies and to satisfy any such directives from such agencies to meet obligations under this Agreement.

19) Independent Contractor Status. The parties hereby acknowledge that they are independent contractors. As such, each party shall be liable for any debts, obligations, acts and omissions relating to its own agents, representatives, students or employees, including the deduction of all federal, state and local income taxes, social security, FICA and other charges, if any, to be deducted from the compensation of its employees. Furthermore, in no event shall this Agreement be construed as establishing the relationship of agent, servant, employee, partnership, joint venture, association or any similar relationship between the parties hereto. As independent contractors, each party will be solely responsible for determining the means and methods for performing the services described herein. Each party understands and agrees that other party is engaged in an independent business or enterprise and the party shall have no right to direct or control in any way or to any degree the manner of other party's performance hereunder. Each party further understands that it is not authorized and shall not make any agreement, contract or representation on behalf of the other party or create any obligation, express or implied, on the part of the other party.

Neither Chabot nor any of its agents, representatives, students or employees shall be considered agents, representatives, or employees of City as a result of this Agreement. Furthermore, each and every person employed by Chabot who is providing services to City under this Agreement shall, at all times, remain an employee of Chabot. Chabot employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from City, nor shall they be entitled to overtime pay from the City. City will make no State or Federal unemployment insurance or disability insurance contributions on behalf of Chabot and/or its agents or employees. Neither Chabot nor its employees shall be included in any bargaining unit or have any property rights to any position, or have any of the rights that an employee of the City may otherwise have in the event of termination of this Agreement.

Neither City nor any of its agents, representatives, or employees shall be considered agents, representatives, or employees of Chabot as a result of this Agreement. Furthermore, each and every person employed by City who is providing services to Chabot under this Agreement shall, at all times, remain an employee of City. City employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from Chabot, nor shall they be entitled to overtime pay from the Chabot. Chabot will make no State or Federal unemployment insurance or disability insurance contributions on behalf of City and/or its agents or employees.

Neither City nor its employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights that an employee of the Chabot may otherwise have in the event of termination of this Agreement.

20) Default. Upon any default by any party in the performance of any of its duties and obligations contained herein and as may otherwise be required by law, the other party shall have all of the rights and remedies which may be provided by law.

21) Non-Waiver. No delay or omission to exercise any right, power, or remedy accruing to a party upon any breach or default by the other party to this Agreement shall

impair such right, power, or remedy of the non-defaulting party; nor shall such delay or omission be construed as a waiver of any such breach or default, or of any similar breach or default thereafter occurring; nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers under this Agreement must be in writing. All remedies either under this Agreement or by law afforded to any party hereto shall be cumulative and not alternative or exclusive.

22) Amendment. This Agreement may be amended or modified only by a writing executed by each of the parties hereto.

23) Attorney's Fees. The prevailing party in any dispute under this Agreement is entitled to recover reasonable attorney's fees and costs.

24) Termination. This Agreement may be terminated as follows: (a) by mutual written agreement of the parties; (b) the conclusion of the initial term, or any extension thereof; (c) the termination of the Agreement without cause upon 10 days' written notice; or (d) immediately upon the breach or default by either party of any of the terms, obligations or covenants of this Agreement, which is not waived in writing by the non-defaulting party.

25) Successors. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the City and Chabot, respectively.

26) Time of Essence. Time is expressly declared to be of the essence in this Agreement.

27) Entire Agreement. This instrument constitutes the entire Agreement between the City and Chabot regarding the CMC.

28) Notice. For the purposes of this Agreement, any notices required to be given to the parties hereto shall be given in writing and by personal service or by first class mail, postage prepaid, at the addresses hereinafter set forth after the signature of each party, or to such other addresses as each party may substitute by notice to the other. Notice shall be deemed complete upon personal service or, if by mail, *five* (5) days after the date of the postmark thereon.

29) Non-Assignment. No party shall assign this Agreement or any right or privilege any party might have under this Agreement without the prior mutual written consent of all parties hereto, which consent shall not be unreasonably withheld, provided that the assignee agrees in a written notice to all parties to carry out and observe each applicable party's agreements hereunder.

30) Non-Liability of Officials. No officer, member, employee, agent, or representative of either party shall be personally liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon, shall be personally enforced against any such officer, official, member, employee, agent, or representative.

31) Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

32) Captions. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

33) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. Any photocopy of this executed Agreement may be used as if it were the original.

IN WITNESS WHEREOF, the parties, through their authorized representatives, affix their signatures to this Agreement.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Hayward Deputy City Attorney

\_\_\_\_\_  
Lorenzo Legaspi for Chabot-Las Positas  
Community College District

Attest:

\_\_\_\_\_  
City Clerk

#### EXHIBITS

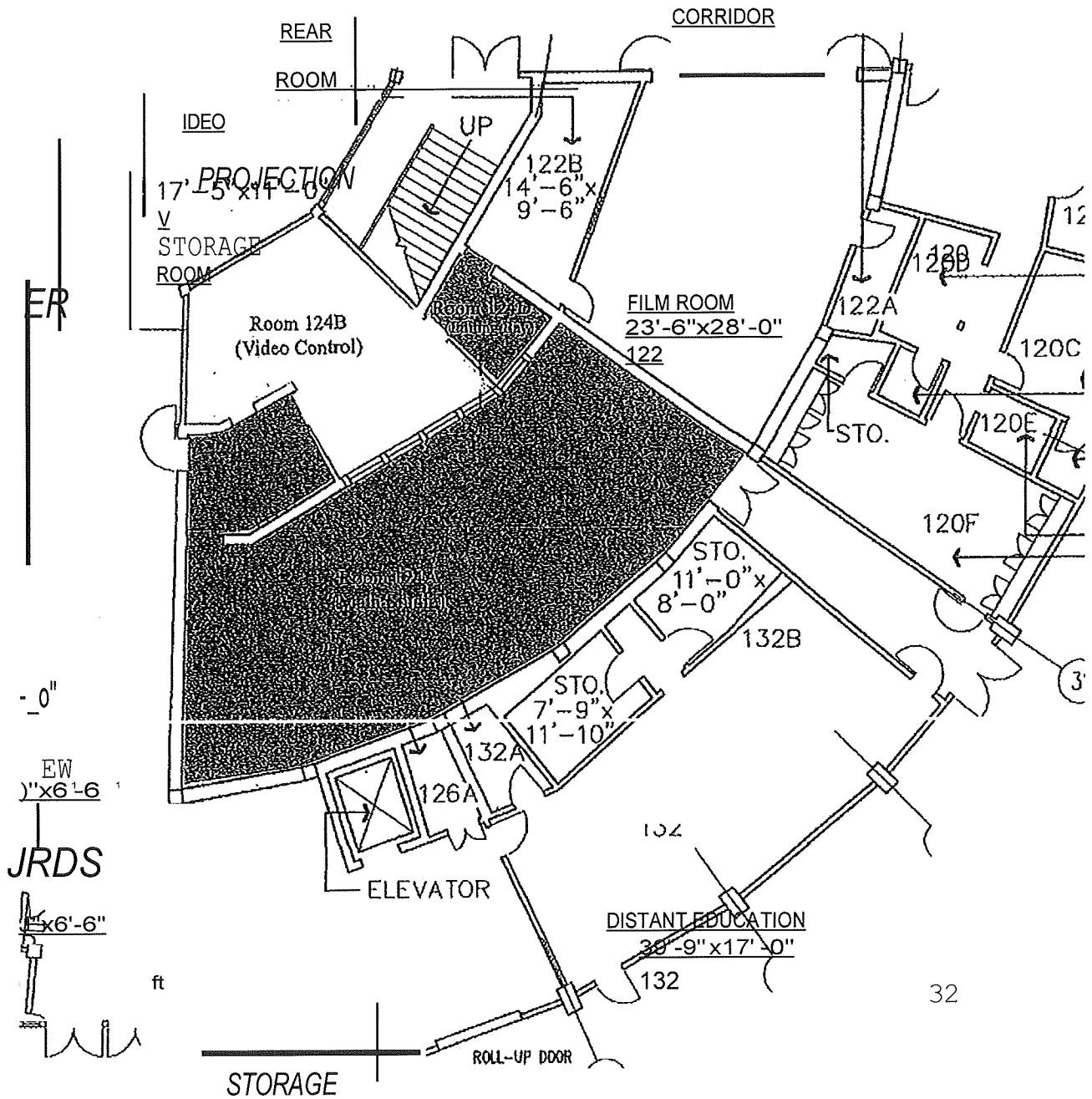
Exhibit A: TV Studio Floor Plan - See attached enclosure

Exhibit B: Video and Media Production Equipment List - See attached enclosure

# Exhibit A

## TV Studio Floor Plan

(Rooms 124A, 124B, and 124D first floor building 100 • Chabot College)





## Exhibit B

Product Code	Bar Code	Title and Product Description	Stock Units	Unit Price	Location
Video Switcher	8082016	Tricaster Mini Portable Switcher	1	\$13,244.51	TV Studio
Digital Audio	5420165	Calrec Service Contract	1	\$8,475.77	TV Studio
Skype System	8102016	NewTek Talkshow VS4000	1	\$8,794.51	TV Studio
Brackets	5420170	Mounting Brackets & Cart for TV's	1	\$842.00	TV Studio
Live Transmit	5420164	AVIWEST License for Cell Phones	1	\$1,610.00	TV Studio
Video Camera	5420166	DJI OSMO 4K HandHeld Camera	1	\$1,536.68	TV Studio
Subscription	5420171	Fred Prior Training 1yr Unimited	1	\$299.00	TV Studio
Camera Utility	5420167	DSC Labs CamBook Greyscale	1	\$813.95	TV Studio
Survellence	5420200	Monitor and Surveillance Installation	1	\$1,490.49	TV Studio
Live Transmit	5420234	Vidovation/AVI West License	1	\$1,610.00	TV Studio
Closed Caption	Pending	Closed Captioning Quote-REV	1	\$1,000.00	TV Studio
News Desk	Pending	Studio News Desk (Quote)	1	\$19,500.00	TV Studio
Diag Monitor	5420229	Borland Remote Monitor	1	\$5,433.00	TV Studio
Software	5420231	Newtek Advanced Ed. For Mini	1	\$995.00	TV Studio
Psych - Studio	Pending	Psych and Green Screen fix	1	\$5,500.00	TV Studio
Electrical	5420230	Alameda Electronics (120 Install)	1	\$511.00	TV Studio
FTP Site (PEG)	5420225	Exavault (FTP Site) Billing	1	\$1,080.00	TV Studio
Maintenance	Pending	Studio Maintenance Contract	1	\$18,000.00	TV Studio
Mic Flags	5420218	Flags for Microphones (3)	1	\$142.20	TV Studio
Furniture	5420232	Furniture for 122 and Studio	1	\$4,866.32	TV Studio
Usage Fee	Pending	Vidovation/Overage Fee	1	\$90.00	TV Studio
Tripods	5420226	Tripods for Baby Sony Cams	1	\$439.90	TV Studio
Software	Pending	Streaming & Converting Software	1	\$1,908.00	TV Studio

# Exhibit C

## EAST BAY COMMUNITY MEDIA CENTER

### COMMUNITY ACCESS RULES AND REGULATIONS

#### WELCOME

The Cities of Hayward, Fremont, and Alameda (“the Cities”) are joined together to create the East Bay Community Media Center (“EBCMC”). The Cities have arranged for the studio production facilities at Chabot College to be available for public, educational, and government access use.

The following Rules and Regulations have been designed to explain the responsibilities of Community Access Users and the requirements for access to any channels and/or facilities. Please read through all of these policies. The Program Producer/Provider must fill out and sign documents acknowledging and agreeing to follow the policies of the Community Access Channels. The Staff at Chabot College are responsible for the day-to-day operation of the Community Access Channels, and may be consulted for clarification or questions regarding these rules.

Any modifications to these Rules and Regulations, the Playback Application and Statement of Compliance forms will be posted at the studio at Chabot College and noted in an email to be distributed within 15 days of their effective date.

#### COMMUNITY ACCESS CHANNELS (Channels 28 and 29)

- Community Access Channels 28 and 29 are provided by the Comcast as a requirement of its state video service franchise issued by the California Public Utilities Commission and ordinances passed by the Cities.
- Community Access Channels 28 and 29 are available for presentation of locally produced and provided programs.
- Community Access Channels 28 and 29 are available without charge to any qualified Community Access User for noncommercial programming purposes on a first-come, first-served, non-discriminatory basis.
- Community Access Channels 28 and 29 are available to local, non-profit organizations to post their community events and happenings on its electronic bulletin board.

## FACILITY

The Cities have made arrangements with Chabot College to provide the following interim facilities to Community Access Users:

- Playback of locally produced programs on DVD-R (preferred), Mini-DV, or DVCAM formats only.
- Studio facility located at: Chabot College, Hayward, CA
  - Website: [www.ebcmc.org](http://www.ebcmc.org)
  - Telephone: 510-723-7604
  - Email: PEG@hayward-ca.gov

## CODE OF CONDUCT

We attempt to create an environment of cooperation, creativity, and community. In order to maintain this environment so everyone involved can have a positive experience, it's important that everyone - staff, producers, volunteers, and guests - understand and follow the Code of Conduct.

Please treat everyone with respect and consideration. Be aware that we're sharing a community space. Follow the staff's instructions in use and handling of equipment and facilities at all times.

The following activities are not allowed on premises, and violation of the following may result in suspension of access privileges:

- Physically or verbally threatening or harassing any person in any way.
- Using sexually explicit language, obscene gestures or racial, religious or ethnic slurs that are likely to upset or disturb the peace of staff, clients, volunteers or visitors.
- Engaging in sexual behavior.
- Nudity.
- Defacing, damaging, or destroying property.
- Possession, use, or sale of illegal drugs, weapons or contraband.
- Possession or consumption of alcohol in any public or common area of the building without prior authorization.
- Being "under the influence" of alcohol or other substances, taken prior to arrival at the EBCMC/Chabot College studio.
- Soliciting, for any purpose, including asking for money, contributions or donations unless such activity has been approved by EBCMC staff.
- Assembling for the purpose of disturbing the public peace.
- Committing any unlawful act.
- Fighting, disrupting other activities, or in any other way creating a disturbance that is disruptive or dangerous to others or the business activities of the EBCMC or Chabot College during any on-site studio production or EBCMC activity.
- Video or audio recording or photographing of any individuals by producers, guests, or visitors on EBCMC or Chabot College premises, including staff or members of the public, without prior consent.

- Smoking inside the building.

The code of conduct must be observed at all times, including during production in the studios. If the content of a studio program would violate the code of conduct, that content must be produced off-site.

## **EQUAL OPPORTUNITY/NON-DISCRIMINATION POLICY**

Organization policy prohibits unlawful discrimination based on race, color, creed, gender, religion, marital status, registered domestic partner status, age, national origin or ancestry, physical or mental disability, medical condition including genetic characteristics, sexual orientation, or any other consideration made unlawful by federal, state, or local laws. It also prohibits unlawful discrimination based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics. All such discrimination is unlawful.

## **DEMONSTRATION OF PROFICIENCY**

To use EBCMC's production equipment (provided through Chabot College) for a Community Access program, a potential producer must demonstrate proficiency. The opportunity to demonstrate proficiency and receive safety and use training will be given on an individual basis as requested.

Members will be "certified" to use production equipment while in the studio once they've demonstrated sufficient skill in operating the gear.

## **VOLUNTEERING**

EBCMC welcomes volunteers to our facility. In particular, we need volunteers to work on studio programs and help out around the office. If you are interested in volunteering on studio productions, we highly recommend that you take our studio production workshop. Contact our staff if you are interested in other volunteering opportunities.

## **EQUIPMENT AND FACILITY USAGE**

EBCMC's equipment and facilities are available to create non-commercial content for a Community Access Channel. Those certified to use the equipment can make reservations via phone, e-mail or in person with the Operations Manager. *Please note: equipment and studio reservations can -only -be -made -after- the -producer has an approved project proposal on file with the Operations Manager, and during times when studio usage does not interfere with instructional needs.*

Equipment may not be used for any other purpose than for creating content for a Community Access Channel. Other use may result in loss of access privileges.

Studio reservations may be made up to two months in advance. Series producers may keep their regular studio reservations as long as their series remains active on a channel.

## **EBCMC STUDIO**

Producers with a regular series may reserve the studio in up to three-hour blocks twice a month. Producers can make special requests to shoot multiple programs per reservation. Producers wishing to produce a "special program" in the studio (*not* a series episode) may reserve the space for up to three hours once a month. Studio programs must have a minimum of three certified producers on their crew. *Please note: EBCMC's entire facility has a maximum occupancy of 25 people. Please consider this when using the facility for shooting in studio.*

## EQUIPMENT USE POLICIES

Canceling a reservation with less than 24 hours notice is considered a violation (see page 10 for explanation of violations).

- Equipment and facility bookings may be given to other members if the producer or crew are over 30 minutes late and have not called to hold their reservation.
- If studio reservations are cancelled three times in a one-month period: (1) series producers will lose their regular time slot; and (2) members producing special programs must meet with the Operations Manager and resubmit a program proposal, unless they have arranged for a leave of absence with the Operations Manager due to extenuating circumstances.
- Producers may not trade or sell their reservations.

## LIABILITIES FOR EQUIPMENT USE

EBCMC assumes responsibility for damage as a result of wear and tear, unless abuse or neglect is obvious. Producers are responsible for the cost of repair or replacement due to damage, misuse or theft.

## IF EQUIPMENT IS STOLEN

- Notify EBCMC immediately.
- File a police report. Provide law officers with proof of forcible entry, details of physical assault, and any other related specifics.
- As soon as possible, give EBCMC a written report of all relevant details, including copies of police reports.

## TECHNICAL PROBLEMS

If you experience any technical problems with EBCMC equipment or facilities that are not caused by operator error and affect the outcome of your production, please notify the Operations Manager.

# ACCESS TO THE CHANNELS

## ELIGIBILITY

Any resident of Hayward, Fremont or Alameda, or an individual who is involved with a community-based or non-profit organization, educational institution, or local government agency located in those cities, may submit non-commercial programming for playback on a Community Access Channel. Proof of individual or organizational residency is required. Hayward, Fremont, and Alameda residents can also sponsor a program produced elsewhere by a non-resident with the appropriate permissions. The sponsor must sign and submit a Playback Application and a Statement of Compliance, and assumes liability for the program's content.

We will attempt to schedule programming according to thematic blocks in an effort to attract more viewers to the channel. Producers should choose themes according to those categories that best relate to their material. Producers with time slots that existed on January 1, 2010 will retain those time slots but should apply for the renewal of the time slots in the manner described below. Recently produced local content will be given scheduling priority in slots reserved for such special programming.

Youth under 16 years must be supervised by an adult while using the equipment and facilities.

## PROGRAM DEFINITIONS

**Series:** A collection of programs with the same title and general format, which are of a consistent length.

**Special Program:** A program that is not part of a regular series, such as a movie, special event, or one-time talk show. Special programs are intended to be infrequent and are not to exceed the

frequency of a regular series.

**Shorts & Fillers:** A program that is less than 15 minutes long, which will be scheduled to fit in between regularly scheduled content.

## **SPECIAL PROGRAM POLICIES**

- A special program will air once with at least one scheduled repeat. Additional airings are based on time availability.
- Scheduling special programs is a way to bring viewers recent, local programming on a timely basis.
- Producers may submit the same special program only once during a programming quarter. We will try to accommodate additional requests for air based on availability.
- Special programs can be up to two hours in length; longer formats are more difficult to schedule and may not receive a repeat airing. The suggested length of a special program is one hour.

## **SERIES POLICIES**

- The series producer agrees to submit an episode in the series at least once a month during a programming quarter (13 weeks). In order to qualify as a series, 51% of the content should be brand new to the channel.
- Producers can keep the same time slot each successive quarter, assuming all rules and regulations are followed. However, a series may be rescheduled to accommodate better overall scheduling according to thematic areas. No time slot is guaranteed to any continuing series.
- Series episodes with regular time slots must conform to the following lengths: 26-29 minutes, 56-59 minutes, or 86-89 minutes. Series episodes that run over these times may be cut off to accommodate scheduling continuity.
- Regular series may be daily, weekly, bi-weekly or monthly. Producers should choose the frequency that matches their production capacity. A daily series must have newly produced content daily to qualify for such frequent scheduling.

## **OBTAINING A SERIES TIME SLOT**

Once you have two episodes of your program complete with a plan to continue producing at least one new episode monthly, you're ready to apply for a series time slot. You will need:

- Two programs that are ready to air.
- Statement of Compliance and Playback Application.
- Proof of residency in the form of: (a) a valid driver's license or photo ID; or (b) a current utility bill or other proof of residency with your mailing address (required, if address is not up-to-date on photo ID); or (c) a letter from a Hayward, Fremont, or Alameda based organization, educational institution, or business which indicates affiliation.

Playback Applications for regular series time slots are submitted one month before the start of the new programming quarter. At this time, we are best able to schedule your series according to themed programming blocks designed to better attract viewers to your series.

During an active quarter of programming, a producer may still submit a Playback Application for a new series or special program, and we will schedule it according to available time. The day and time may change in the following quarter when the producer resubmits a Playback Application.

## **NUMBER OF SERIES**

In order to equitably share the finite channel space, a producer may have only one series in rotation at a

time, but may submit special programs for playback that are clearly different than their series in content, title and length.

## **GENERAL PROGRAMMING POLICIES**

### **REQUIRED PAPERWORK**

All current producers must have a Statement of Compliance on file with the Operations Manager. A Playback Application is required for each episode of your program.

### **SUBMITTING YOUR PROGRAM**

Producers must upload their programs via the Exavault FTP site at least 2 days before the air date. This is to ensure that the files can be checked for any errors and valid formats. Please delete older uploads. This ensures the latest episodes are download for programming.

### **EBCMC CREDIT**

Series or special programs made at the EBCMC (Chabot) studio or with Chabot equipment must credit the East Bay Community Media Center at the end of each episode. For example, a title screen or voiceover with the following words is appropriate:

“This production was made possible by the use of the facilities and services of the East Bay Community Media Center.”

### **PRESCREENING**

East Bay Community Media Center does not prescreen the content of any program that is submitted for playback, but may view portions of a program to ensure technical standards are met. We reserve the right to ask for proof of permission to telecast any copyrighted material. The Producer or Resident Sponsor takes on all liability for the content that is produced on their program (see Statement of Compliance).

### **NON-PROTECTED SPEECH**

A program must not contain any libelous or obscene material. Obscene material is defined by the courts as the following:

- to the average person, applying contemporary community standards, taken as a whole, appeals to the prurient interest;
- depicts or describes sexual conduct in a patently offensive way;
- taken as a whole, lacks serious literary, artistic, political, or scientific value.

No material may be aired that will violate any City, County, State, and Federal laws.

### **TRANSFERRING TIME SLOTS**

Time slots may not be transferred to another program provider. Program providers may not substitute other programs in their allocated time slots.

### **SPECIAL PROGRAM VS. SERIES**

A series producer may not submit a “special program” that is essentially an episode of their series under a different title, or of a different length.

## **ACCESS FOR POLITICAL CANDIDATES**

Political candidates are subject to the same rules as other users of the EBCMC channels. Programs endorsing any particular candidate will not be played within 24 hours prior to the Election Day. Individual candidates may not use the on-air Community Calendar.

## **COMMERCIAL CONTENT**

*There may not be any commercial material nor advertising, nor promoting an illegal lottery or gambling enterprise on EBCMC's channels. Use of EBCMC equipment for the production of such content will result in a major violation.*

## **FUNDRAISING ON AIR**

No fundraising is allowed which would result in financial gain for individuals or commercial enterprises.

## **UNDERWRITING AND SPONSORSHIP**

In exchange for their support, businesses or individuals may receive a text credit at the end of the program. Requests for new underwriters may appear only in the last two minutes of the program. The following can be included in an underwriting spot:

- Name of the underwriter in a credit roll or card.
- A photo/logo.
- Voiceover acknowledging underwriters.

*Important: Underwriting spots may not include calls to action (e.g., "Call me!") or comparative language (e.g., "The best mortgage rates in town") or use of the product or service in the spot (e.g., showing someone eating food from the restaurant that donated to your program). Underwriting support is meant to cover the costs of your production, and is not meant to be a source of income for yourself. At any time, EBCMC reserves the right to see financial documentation detailing your production costs and underwriting revenues.*

## **ADULT CONTENT**

Adult content includes programming with excessively violent material, offensive language, nudity, graphic depiction of medical procedures, or sexually explicit material. Adult content will only be aired from 1am to 4am. Programming with mature language or which is intended for mature audiences will be scheduled from 10pm to 1am. When filling out the Playback Application, the Producer must inform the staff that their program contains such adult content. The program must have the following displayed as a graphic and as a voiceover prior to the start of the program:

*"The following program contains [include the specifics of all aspects of the content that could be potentially objectionable to others: excessive violence, excessive profane or offensive language, excessive nudity, sexually explicit material, graphic depiction of medical procedures], that some viewers may find objectionable or inappropriate."*

## **LIBEL AND COPYRIGHT INFRINGEMENT**

Access users are bound by the same libel and copyright laws that affect broadcast, cable, and print media. These areas of concern include false accusation, defamation, libel, or the ridicule of an individual or organization, and use of another person's copyrighted material without their permission.

The Producer bears the legal consequences of and responsibility for the production -- not EBCMC, the Cities, Chabot College, or staff. Producers are required to sign the Statement of Compliance to acknowledge their liability.

## **PREEMPTING**



EBCMC reserves the right to preempt any program in the event that time sensitive content needs to air on occasion. However, if a program was not played due to human or technical error, that program can have one additional airing.

## **PROMOTING YOUR PROGRAM**

Each series or special program can submit a video promo or Bulletin Board message to air on EBCMC. It is the responsibility of the producer to make a slide or video promo. EBCMC's logo is not available to use on your program or in your promotional materials, except by request. Video promos should be 10, 20 or 30 seconds long. If the program is an adult themed program, promos will air at the appropriate later time.

## **ACCEPTABLE CONTENT FORMATS**

We accept programming via our upload site at [exavault.com](http://exavault.com). Login information will be provided once Producer signs proper paperwork and agrees to the code of conduct.

- Format must be Codec H264, Frame Size: 1920 x 1080 ; Aspect Ratio 16:9; Bit Rate: 15.53 Mb/sec
- Audio sample rate should be 48khz
- Frame Rate should be 29.97 FPS.
- The server will reject formats not set to the above configuration.
- A program may not be played if submitted in any other format. Please contact us if you have any questions. When you upload your program, do *not* include bars and tone, a countdown, or anything other than the program and ten seconds of black in the beginning.

## **CONTACT INFORMATION**

Producers must have current public contact information on file with EBCMC. This may be an email address or phone number that the producer will allow be given out to viewers who would like to contact them about their program.

## **FORFEITURE OF ACCESS PRIVILEGES**

Failure to comply with these Rules and Regulations may subject the user to forfeit the privilege to use the Community Access Channels as determined by the East Bay Community Media Center.

Other grounds for forfeiture of Access privileges include:

1. Using equipment for the purpose of making a profit, including charging guests or covering events for profit.
2. Use of equipment and facilities for any purpose not related to the production of programs for telecast on EBCMC managed channels.
3. A community producer representing himself/herself as "staff."
4. Attempted equipment maintenance or disassembly.
5. Changing the wiring/cabling of the studio without specific authorization in advance by EBCMC staff.
6. Abuse or vandalism of EBCMC equipment and facilities.
7. Appearing nude or semi-nude (genitals uncovered) in the EBCMC facility.
8. Behaving in a violent, disruptive or threatening manner or repeatedly behaving in a disrespectful manner to EBCMC staff, volunteers or other producers/members.

9. Using or possessing alcohol or controlled substances atEBCMC.
10. Possession, use, or sale of illegal drugs, weapons or contraband.
11. Breach of the Statement of Compliance, Equipment Checkout Form or Playback Application.
12. Falsifying your physical address.

**Any individual or group cablecasting a program that violates any item in the above list will immediately lose all production privileges, and the program or series in question will be permanently removed from the Community Access Channel schedule.**

## Acknowledgement

By my signature on this page, I acknowledge that I have received the East Bay Community Media Center Access Rules and Regulations, dated March 1, 2010. I further acknowledge that I have read and understand the contents of the East Bay Community Media Center Access Rules and Regulations, and agree to abide by them and any other studio or playback policies and procedures.

Name of Program: \_\_\_\_\_

Producer/ Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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

**If the User is a minor, a parent or legal guardian must co-sign below.**

As the parent or legal guardian of the above minor, I hereby authorize said minor to participate in Community Access programming. I agree to all terms of the East Bay Community Media Center Access Rules and Regulations. I am responsible for the programming produced by the minor applicant, and for the proper use of the equipment and facilities by the minor applicant.

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

Signature: \_\_\_\_\_

Date: