

AGREEMENT NO. _____

THIS MANAGEMENT AND OPERATING AGREEMENT (“Agreement”), is made by and between the CITY OF PASADENA, hereinafter referred to as the “City” and the PASADENA COMMUNITY ACCESS CORPORATION, a California nonprofit public benefit corporation and a 501 c(3) entity, hereinafter referred to as “PCAC” with headquarters currently at 150 S. Los Robles, Suite 101 Pasadena, California, 91101.

W I T N E S S E T H:

WHEREAS, the City desires to secure the efficient management, operation and maintenance of the local Public, Education and Government (PEG) Access System, as well as the related studio assets and production equipment, while minimizing the net cost to the City;

WHEREAS, PCAC was created by Pasadena Municipal Code, Title 2, Article IV, Boards of Nonprofit Corporations, Chapter 2.155, on December 9, 1983 and PCAC is incorporated as a California non-profit corporation with 501c (3) status;

WHEREAS, the primary purpose of PCAC is to serve as an umbrella organization for and to facilitate the programming operations of the PEG Access System and its channels in Pasadena for the public benefit, including the city government cable TV station, KPAS; the public access channel, the Arroyo Channel; and the education channels, PCC-TV, with Pasadena City College, and KLRN, with the Pasadena Unified School District, and to manage the operations of a “Community Media Center”;

WHEREAS, PCAC is dedicated to the high standards of quality professional PEG access, including the creation of original local programming, offering video production services and training, and comprehensive cablecasting/broadcasting services for the City, including emergency information and regular cablecasts, broadcasts, web streaming and other online coverage of the City Council and other special public meetings;

WHEREAS, PCAC acts as a liaison with both residents of Pasadena regarding the local PEG Access System in Pasadena and with the local cable television providers; and has the responsibility to interface, inform and seek feedback from residents regarding their cable service as well as to monitor the systems that transports PEG programming; and

NOW, THEREFORE, the parties known as the City and PCAC do agree as follows:

1.0 DEFINITIONS AND INTERPRETATIONS

In this Agreement, unless a different meaning clearly appears, and is agreed upon, from the following context:

"Access," "PEG access," or "PEG use" refers to the availability of channels on a cable television system for public, education or government use by various agencies, institutions, organizations, groups and individuals, including the City of Pasadena, to acquire, create, and distribute programming not under a cable operator's editorial control;

"City" shall mean the City of Pasadena.

"Community Media Center" shall mean a facility where television studio(s), electronic media production equipment and training in the use of such equipment are located and available for PEG access use.

"Contract" shall mean any contract, agreement, license or instrument, debenture, bond, note, resolution or other writing, which creates, modifies or destroys a legal relationship.

"Contractor" shall mean a party to any type of Contract with PCAC.

"Cost Allocation" refers to the allocation of costs incurred by the City's General Fund for the benefit of non-General Funds.

"Educational access" or "Educational use" means access where educational institutions are the primary or designated programmers or users having editorial control over their communications;

"Government access" or "Government use" means access where government institutions or their designees are the primary or designated programmers or users having editorial control over their communications;

"PCAC" shall mean the Pasadena Community Access Corporation, which also is doing business as "Pasadena Media."

"PEG" means Public, Educational, and Government access collectively.

"PEG Access System" shall mean all PEG access channels and all equipment and facilities provided for or funded by various means by the City of Pasadena for PEG access purposes, including the PEG Transport.

"PEG Transport" shall mean the current and future Fiber Network and/or Institutional Network of cable and/or fiber lines (originally coax copper wire) provided and maintained in Pasadena by any current and future cable, video and telecommunications service providers to

transport or transmit video programming and data generated by the PEG access channels from various live origination locations throughout the City for distribution to the service providers' existing and future subscribers.

“Preexisting Contract” shall mean any contract in effect between the City or PCAC and any third party made prior to the date of this Agreement.

“Public access” or "Public use" means access where organizations, groups, or individual members of the general public, on a non-discriminatory basis, are the primary or designated programmers or users having editorial control over their communications; and

“Resident” shall mean any person living within the Pasadena City limits.

2.0 REPRESENTATIONS AND WARRANTIES OF PCAC

PCAC represents and warrants to the City that:

- 2.1 PCAC is a California non-profit public benefit corporation that was duly formed, validly existing and in good standing under the laws of the State of California and the U.S. Government, and has the authority and power to conduct its business, to own property and to execute and deliver Contracts, and to perform its obligations in this Agreement.
- 2.2 PCAC has received a favorable ruling from and can deliver documentation of the same as to its status as a 501c (3) entity under the rules of the U.S. Internal Revenue Service and that contributions made to PCAC are income tax deductible under U.S. law.
- 2.3 When executed and delivered by the City, this Agreement will constitute a legal, valid and binding obligation of PCAC that is enforceable in accordance with its terms, except as enforcement hereof and thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if such equitable remedies are sought.
- 2.4 The execution and delivery of this Agreement and compliance with this Agreement will not in any material respect conflict with, or constitute a breach of/or default under any other agreement or document to which PCAC is subject to or by which it or any of its property is bound.
- 2.5 There is no formal audit, action, suit, proceeding or investigation of/at law or in equity before or by any state or federal court, public board or body, including, but without limitation, the Internal Revenue Service, the Franchise Tax Board, the U.S. or State Attorney General, that is either currently pending, or, to the best of the knowledge of PCAC, threatened against or affecting PCAC, which would (a) materially or adversely

affect PCAC's ability to perform in the manner contemplated by this Agreement, (b) affect PCAC's overall status as an organization or (c) in the case of an unfavorable ruling in any such action, adversely affect PCAC or the validity and/or enforceability of this Agreement.

2.6 By official action of PCAC prior to or concurrently with the execution of this Agreement, PCAC has duly authorized and approved the execution and delivery of, and the performance by PCAC of the obligations on its part(s) contained in this Agreement and the consummation by it of all other transactions contemplated thereby and hereby, and, as of the date of this Agreement, guarantees such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

2.7 PCAC is not knowingly in breach of, or in default under, any applicable law or administrative regulation of the State of California or the United States of America, or any applicable judgment, decree or any Contract to which PCAC is a party to or which it or any of its property is otherwise subject to, in which said breach or default would have a material and adverse impact on PCAC's ability to perform its duties and obligations under this Agreement and that no event has occurred and/or is continuing which, even with the passing of time or giving of notice, or both, would constitute a default or an event of default under any such instrument.

3.0 APPOINTMENT, GENERAL AUTHORITY AND STANDARDS OF PCAC

3.1 Managing Agent. Subject to the terms of this Agreement, and all applicable law, the City does hereby appoint PCAC to act as an Agent of the City to serve as the Managing Agent of the local PEG Access System and that PCAC does hereby accept the foregoing appointment as an Agent of the City and to serve as Managing Agent of the local PEG Access System including responsibility for the monitoring of the current and future cable, video and telecommunications service providers utilizing PEG transport feeds. It is the intent of this Agreement and of both parties that PCAC will have maximum authority as permitted by law over the operation and day-to-day management of the local PEG Access System subject to limitations imposed by the Charter of the City of Pasadena, the Pasadena Municipal Code, applicable federal and state laws, including the franchise agreements, and contractual agreements and work plans between PCAC and the City for operating KPAS and the Arroyo Channel; and between PCAC and Pasadena City College for operating PCC-TV, and between PCAC and the Pasadena Unified School District for operating KLRN. Nothing in this Agreement shall be construed as an attempted delegation by the City of any non-delegable duties or as a restriction in any way on any legislative or policy authority of the City.

- 3.2 All Contracts on Behalf of the City. PCAC shall enter into all Contracts on behalf of the City with respect to the operation of the local PEG Access System. All such contracts shall state that the rights and obligations of PCAC thereunder are assignable to the City of Pasadena by written notice from the City to the contractor and PCAC and without further need of additional approval by PCAC or any party to said contract.
- 3.3 General Authority of PCAC. Subject to the provisions of this Agreement and to the limitations imposed under any applicable law, from and after the execution date of this Agreement, PCAC shall have the authority to:
- 3.3.1 Employ or contract, and terminate the same, any such professional workers, production technicians, electricians, engineers, technical personnel, mechanics, laborers, clerks, consultants, accountants, and all other full- or part-time employees, contractors and interns who are reasonably necessary and appropriate for the safe and efficient management, operations and productions of PCAC.
 - 3.3.2 Procure any materials, video production and computer equipment, servers, high definition, digital or analog cablecasting/broadcasting and engineering equipment, utility services, office supplies and equipment and all current or future technologies and equipment that are reasonably necessary and appropriate in the management, operation and production of the local PEG Access System for Pasadena.
 - 3.3.3 Procure and maintain in force and effect, directly or through and of benefit to the City, all necessary public liability insurance, property insurance, earthquake insurance, workers compensation insurance, riot and civil commotion insurance, fidelity and surety bonds as are required and advisable, and to procure and maintain in full force and effect all such other insurance and bonds as PCAC may deem advisable and appropriate. PCAC agrees that the coverage amounts of all said insurance policies shall be at the minimum coverage amounts and levels acceptable to and approved by the City.
 - 3.3.4 Purchase, lease, rent or otherwise acquire, hold, own, and/or sell convey, exchange, option or otherwise dispose of personal, intellectual and/or real property of every class and description, tangible and/or intangible and any estate or interest therein declared a party to or granted interest therein, including, but without limitation to, the rights of registered service marks, trademarks, logos, copyrights, original programming and marketing materials or any other reasonable property consistent with this Agreement, provided, however, that nothing herein shall (a) obligate or require the City to convey

title to any property, real or personal, tangible or intangible (b) constitute or require the City to transfer any interest in any such property (c) empower PCAC to sell or exchange or otherwise dispose of any City property not directly related to PCAC operations or (d) obligate the City to relinquish program content control and ownership for the City's Government Access TV Station, KPAS.

- 3.3.5 Oversee the public's use of, or permit the use of, the local PEG Access System, specifically the Arroyo Channel, subject to appropriate equipment training and safety standards, for the purposes of public access to cable television programming, and subject to the terms of this Agreement and to the requirement of all applicable laws.
- 3.3.6 Take, exercise and/or omit any and all such actions as necessary, enter into Contracts and engage in such other transactions as are reasonably necessary or appropriate, including during times of emergency or disaster, for the management, operation, maintenance, improvement, re-location and/or administration of PCAC and the local PEG Access System that are consistent with the general purposes of this Agreement and in keeping with the franchise agreements of cable television operators serving the Pasadena area.
- 3.3.7 Grant and administer all existing and future types of licenses, use agreements, talent bookings, marketing outreach, programming uses and other similar contracts for the efficient operation of PCAC.
- 3.3.8 Apply for and hold all permits and licenses that are necessary and useful for the operation of PCAC or for any of its functions to provide PEG access and services to the Pasadena area.

4.0 LIMITATIONS OF AUTHORITY OF PCAC. Without limiting the generality of the foregoing and in keeping with the general purposes of this Agreement, PCAC shall not have the authority to do the following:

- 4.1 Delegate its authority outlined in this Agreement to another party.
- 4.2 Fix policies or otherwise legislate with matters reserved for the Pasadena City Council.
- 4.3 Sell, transfer or dispose of City property or PCAC property of any nature without complying with the Pasadena Municipal Code regarding the legal requirements for the sale, transfer or disposition of such property provided, however, that no such sale, transfer or disposal of City property under the control of PCAC should occur without the express prior approval of the City.

- 4.4 Enter into any contract or license for procurement of supplies, material, labor or other valuable consideration which does not comply with the requirements of the Charter of the City of Pasadena, the Pasadena Municipal Code and all other applicable laws, policies, rules and regulations, or which purports to encumber or otherwise expend City or PCAC funds or use any City or PCAC resources not subject to the specific management or control of PCAC pursuant to this Agreement.
- 4.5 Abandon the PEG Access System, or any part thereof, during the term of this Agreement.
- 4.6 Knowingly use or occupy or knowingly allow PCAC or the PEG system, or any part thereof, to be used or occupied for any unlawful or hazardous purpose.

5.0 REVIEW OF LEGISLATION. The City agrees and covenants that, for the term of the Agreement and to the maximum extent permitted by law, it shall not adopt any ordinance, order, plan, study, resolution or policy ordering and/or affecting PCAC until such ordinance, order, plan, study, resolution or policy shall first have been provided to PCAC for a report, study and recommendation. PCAC shall report back and recommend to the City Council upon any such matter within 40 days after the date of its submission. Upon written request by PCAC, additional time for report and recommendation may be granted by the City Council. If PCAC does not respond within the allotted time, the City may thereafter proceed to act upon all such related matters without additional report or recommendation by PCAC.

6.0 INSURANCE AND INDEMNITY. To the maximum extent permitted by law, the City agrees to defend, hold harmless and indemnify PCAC, its Board of Directors, Executive Director and all other officers, representatives and employees from all claims for damages against PCAC for personal injury (including death) and property damage and to cause PCAC, its Board of Directors, Executive Director and all other officers, representatives and employees, to be included as an insured on policies of liability insurance as may be procured, from time to time, by the City.

City and PCAC further agree:

- 6.1 PCAC shall adopt practice and procedures, which conform to City policy on reporting and investigating accidents as stated in the City of Pasadena Manual of Personnel Rules, Practices and Procedures.
- 6.2 The City agrees to process claims in the manner consistent with the way similar claims against the City are also processed.
- 6.3 PCAC shall use forms of Contracts, Licenses and Permits only as reviewed and approved as to form by the City Attorney's Office.

- 6.4 PCAC Contracts, License Agreements and Permits, if any, shall, to the extent feasible, transfer risk to contractors, the users of PCAC studio facilities and equipment, and shall require such users, as appropriate, to provide insurance unless PCAC, with the consent of the City's Claims Coordinator or designee, agrees to an exception.
- 6.5 City may insure City-owned, or leased, studio facilities and equipment for KPAS or under the control of PCAC against the risk of loss and City agrees to waive subrogation against PCAC for any insured loss or self-insured loss. City will seek endorsement of any policy not honoring this contractual waiver to include a waiver of subrogation, or will have PCAC named as an additional insured.
- 6.6 PCAC agrees to reimburse the City for any Risk Management services, including, but not limited to, insurance premiums, self-insured loss and payment of deductibles, as set by the City's Finance Department in conjunction with this Agreement.
- 6.7 PCAC agrees to purchase and maintain in effect a policy of workers' compensation insurance meeting all current and future legal requirements. PCAC may also purchase Directors' and Officers' liability insurance. PCAC may use the City's Risk Management services to purchase all such policies on PCAC's behalf, and, if choosing to do so, PCAC agrees to reimburse the City for all such Risk Management services, premiums, self-insured claims, claims/legal expenses and other operations costs through the City's annual accounting procedures as set by the City's Finance Department.
- 6.8 Unless otherwise agreed upon or negotiated, the City agrees to be responsible for all self-insured retention and deductible amounts for all policies purchased by the City and PCAC agrees to be responsible for all self-insured retention and deductible amounts for all policies purchased by PCAC.
- 7.0 ACCOUNTING. PCAC agrees to maintain its financial books and records in accordance with the professional standards of generally accepted accounting principles. PCAC shall have, and maintain in place, its own accounting systems or may contract for the same with the City or with other outside providers.
- PCAC shall conduct an annual audit as required by the Finance Department and the City Manager's Office. The City also reserves the right to conduct, at any time and at City expense, an independent audit of all financial records, data and operations of PCAC.
- 8.0 NEW CITY LEGISLATION OR POLICIES. As appropriate, PCAC shall from time to time bring forward for City Council consideration, recommendations for new, local legislation, or updates or changes, as appropriate, to existing local regulations and policies regarding the public benefit and use of the local PEG system and channels.

9.0 PREEXISTING CONTRACTS. The City understands that there may be a number of Preexisting Contracts in force between PCAC and other third parties, which affect or relate to PCAC's operations of the PEG system. This agreement does not, in and of itself, alter or affect those preexisting relationships between PCAC and said third parties. The City understands and agrees that PCAC shall retain all rights, standing, duties and responsibilities, under its preexisting contracts with third parties. PCAC understands and agrees that its rights under this Agreement are subject to and limited by all such preexisting contracts and that PCAC shall not enter into any future third party contract, which is inconsistent with any term or condition herein agreed upon as part of this Agreement.

Exhibit "A" of this Agreement is a list of all such third party agreements that may involve or obligate the City as an additional party to those preexisting contracts or agreements as a result of implementing this Agreement. Exhibit "B" of this Agreement is a list of all other such third party agreements listing information on the third parties involved and the appropriate details of the agreements.

10.0 ANNUAL BUDGET, WORK PLAN AND FINANCIAL REPORTING.

Annually, and concurrently with the preparation of the City's annual operating and capital budgets, PCAC shall submit to the City:

- A) A recommended operating budget for the following fiscal year commencing on July 1, including requested appropriations covering all expenses include but not limited to all direct expenses and charges for City services and cost allocations and any estimated revenues to be received from grants, charges for services and other sources.
- B) A recommended capital budget including both recommended appropriations for the following fiscal year as well as a projection of anticipated expenditures for the subsequent four fiscal years.
- C) A Work Plan for KPAS programming co-developed with the City's Public Information Officer, or designee, and the PCAC Executive Director, or designee, that outlines the anticipated annual scope of work for KPAS based on an assessment of City TV and video production priorities. The City shall retain final approval authority over all KPAS programming content outlined in the Work Plan and the City Public Information Officer, or designee, shall serve Executive Producer for KPAS program content.
- D) On no less than a quarterly basis, PCAC shall submit to the City's Director of Finance such information as deemed appropriate by the Director for inclusion in the periodic financial reporting to the City Council's Finance Committee.

11.0 PUBLIC ACCESS AND COMMUNITY RELATIONS. PCAC agrees that it shall develop, maintain and promote programs, policies and services that provide for Public access use and benefit, specifically through the Community Media Center and the Arroyo Channel. PCAC agrees to develop a regular schedule that is publicly announced by which the public has access to a Community Media Center for the creation of original television programming and public service announcements, to provide the public with the training to safely operate television production and editing equipment and to broadcast the programming produced by the public, non-government organizations, community groups and other members of the public on the Arroyo Channel. PCAC agrees to work with the City to promote the availability of such programming opportunities and to include information about its efforts as part of the required PCAC Annual Report.

12.0 GENERAL PERFORMANCE STANDARDS AND PRACTICES

12.1 Maintenance of PCAC Facilities. PCAC shall maintain the Community Media Center and its buildings, studios, equipment and vehicles in accordance with all applicable state and local laws and with established City maintenance standards. PCAC's responsibilities and duties with respect to parking for public access to studio facilities shall be general, but not limited to, working with its landlord or property owners to maintain adequate parking and designated parking for persons with disabilities.

12.2 Operating Standards for Programming. PCAC shall comply with all applicable standards and best practices for any television and video programming, advertising, promotions, fund raising and marketing as well as in all other aspects of this operating agreement.

12.3 Punctual Payment. PCAC agrees that it shall duly and punctually pay or cause to be paid all of its financial obligations, and to timely discharge or provide for the discharge all claims for which it has authorized or incurred for labor, materials supplies or other contracts in connection with the successful and ongoing operations of PCAC and the PEG Access System.

12.4 Non-discrimination in Access. PCAC shall operate and manage its facilities and the Access System without discrimination as to race, religious creed, color, national origin, ancestry, handicap/disability, sex, age, gender preference, and/or any other impermissible classification as defined by law. PCAC also agrees that it shall ensure that its employees are aware of accessibility features and are prepared to provide assistance as required by individuals with disabilities to ensure public access to PCAC facilities and operations.

12.5_Hiring Practices. PCAC agrees to comply with all hiring and contracting practices governed under the Pasadena Charter and Municipal Code as amended, and the rules and regulations promulgated thereunder. Specifically, PCAC shall ensure that all solicitations or advertisements for employment placed on or on behalf of PCAC shall state that PCAC is an “Equal Opportunity Employer” and/or that all qualified applicants will receive consideration for employment without regards to race, religious creed, color, national origin, disability, handicap, ancestry, sex, gender preference or age.

12.6 City Attorney. Pursuant to the Pasadena Municipal Code, the City Attorney’s Office shall represent and advise PCAC, as a Board of the City, regarding all legal matters pertaining to PCAC. This representation includes, but is not limited to, attendance at Board meetings, contract review and approval as to form and general legal advice for Board members and the PCAC Executive Director. Commencing in Fiscal Year 2016, and each year thereafter for the term of this agreement, PCAC shall reimburse to the City the amount determined by the City's Finance Department, which shall include a cost allocation for legal services, as well as other services provided by the City in addition to legal services.

12.7_Annual Report. PCAC shall submit an Annual Report to the City detailing its operations and programming for the entire PEG Access System.

12.8 Noticing. Official correspondence for and between PCAC and the City shall be mailed and noticed as follows:

To the City:

City of Pasadena
100 N. Garfield Avenue
Pasadena, Calif. 91109
Attention: Public Information Officer
City Manager’s Office, Second Floor, S228

To PCAC:

Pasadena Community Access Corporation
150 S. Los Robles, Suite 101
Pasadena, California. 91101
Attention: Executive Director

- 12.9 **KPAS Duties and Responsibilities.** At a minimum, and subject to an annual KPAS Work Plan, PCAC agrees to provide, but is not limited to, all basic and emergency programming duties and recording responsibilities of KPAS, including the live and recorded broadcasting and re-broadcasting of all City Council meetings in Council Chambers or at off-site locations; all related meeting support necessary for successful City Council meeting broadcasts and re-broadcast; all audio recording and audio-visual technical support for other public meetings of City Boards and Commissions as required or requested; and the timely recording and broadcasting of City special events and other original programming and public service announcements as approved by the City Manager's Office, including, but not limited to, the annual State of the City event and other regularly re-occurring special events in the City. In addition to maintaining a regular broadcasting schedule of such programming on the KPAS channel, PCAC shall provide similar broadcast-quality video content for streaming on the City's website and social media platforms, as well as the PCAC website and social media channels, and other future distribution methods for the City, KPAS and PCAC as appropriate and developed.
- 12.10 **Liaison with Video Providers.** PCAC also agrees to serve as the City's liaison between the public (video subscribers) and local video service providers to log and refer complaints to video providers; help resolve issues logged and to provide quarterly reports to the City Manager's Office on the status of complaints received.
- 12.11 **Public Information.** PCAC agrees to fully comply with all provisions and disclosure requirements pursuant to the California Public Records Act, California Government Code Section 6250, et al, and the Ralph M. Brown Act, California Government Code Section 54950, et al, for public meetings and agendas, and all successor statues and provisions. PCAC agendas shall be publicly posted at City Hall and made available in accordance with all applicable state laws and the Pasadena Municipal Code.
- 12.12 **Status of Assets and Liabilities.** All property, assets, profits and net revenues of PCAC are irrevocably dedicated to the City, provided, however that until all indebtedness of PCAC shall have been paid, such net revenue may be used for the purposes of paying or calling for redemption of any bonds, debentures, notes or other evidences of indebtedness. Upon the dissolution, liquidation, or winding up of PCAC or upon abandonment, the assets of PCAC remaining after payment of or provision for all debts or liabilities of PCAC shall be distributed to the City.
- 13.0 **TERM OF AGREEMENT.** Subject to other provisions for termination contained elsewhere in the Agreement, the term of the Agreement shall be for a period of twenty five (25) years, commencing as of the date of this Agreement and ending July 1, 2040.
- 14.0 **TERMINATION.**
- 14.1 In an "Event of Default" by either party, the other party may declare a default and terminate this Agreement by written notice of intent to terminate to the defaulting party

as specified herein. The notice shall specify the basis for the Event of Default. The Agreement shall terminate sixty days from the date of the notice unless such default is cured before the effective date of termination.

14.2 Termination for an Event of Default shall relieve the terminating party of further liability or responsibility under this Agreement as of the date of termination, except for those liabilities and responsibilities specified in Section 6 and otherwise required to effect a transition back to City control and otherwise to protect and to safeguard public property and assets.

15.0 EVENT OF DEFAULT. The occurrence of any of the following shall constitute an “Event of Default” hereunder:

15.1 Without the application or consent of PCAC, a receiver, trustee, custodian or similar officer shall be appointed for PCAC or for any substantial part of PCAC’s property, or any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation, or similar proceedings under the laws of any jurisdiction shall be instituted (by petition, application, or otherwise) against PCAC.

15.2 PCAC shall admit in writing its inability to pay its debts when due, or make an assignment for the benefit of creditors, or apply for or consent to the appointment of any receiver, trustee, custodian, or similar officer for PCAC for any substantial part of PCAC’s property, or institute (by petition, application or otherwise) or consent to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation, or similar proceedings under the laws of any jurisdiction or otherwise authorize action to approve any of the forgoing.

15.3 PCAC shall dissolve or shall commence any action or proceeding which seeks as one of its remedies the dissolution of PCAC.

15.4 Any representation or warranty of PCAC contained in the Agreement shall prove to be false or misleading in any material respect when made.

15.5 PCAC shall fail to keep in force and effect any permit, license, bond, insurance policy, consent, or approval required under the Agreement provided, however, that such failure shall not constitute an Event of Default if PCAC promptly notifies the City of its intention to cure such default and in fact cures such default within the cure period specified.

15.6 Either party shall fail to perform or observe any term, covenant, or condition contained herein (and not otherwise specified as an Event of Default) including, but without limitation, any action beyond the limitation set forth in Section 4 or 5 of the Agreement; provided, however, that such failure shall not constitute an Event of Default if the

defaulting party promptly notifies the other party of its intention to cure such default and in fact cures such default within the specified cure period.

16.0 FINANCIAL INTEREST. No officer, director, or employee of PCAC shall have any financial interest in any contract made by PCAC which is prohibited by law. This prohibition shall not prevent any officer, director, or employee of PCAC from serving as an officer, director, or employee of any entity entering into a contract with PCAC. However, at no time shall more than one-half of the members of the Board of Directors of PCAC be officers, directors, or employees of any such entity. PCAC directors, officers, and employees shall comply with all legal requirements governing conflict of interest of public officials (including, but not limited to, the Political Reform Act of 1974 (Government Code sections 81000 *et seq.*), Government Code section 1090, and common law prohibitions against financial conflicts of interest) through disclosure of financial interests and prohibition of participation in the making of decisions in which an official knows or has reason to know that he or she has a financial interest.

17.0 ASSIGNMENT. PCAC shall not assign this Agreement, or any part thereof, without prior written consent of the City Council.

18.0 ENTIRE AGREEMENT. The City and PCAC agree that this Operating Agreement and any required exhibits, addendums or other related documents referenced herein, shall constitute the complete and exclusive agreement between the City and PCAC with respect to the management and operations of PCAC and the PEG Access System, specifically with respect to KPAS and the Arroyo Channel. Further both the City and PCAC agree that this duly signed Operating Agreement supersedes and merges all prior proposals, MOUs, contracts, understandings and other agreements, whether written or oral, implied or otherwise referenced, between the City and PCAC. This agreement may not be modified, amended or altered by PCAC.

19.0 DUPLICATE ORIGINALS. There shall be two (2) full signed copies of this Operating Agreement, each of which shall be deemed an original, and one each kept by the City and PCAC.

IN WITNESS WHEREOF, the parties intending to be legally bound have executed this Agreement and the effective date will be the date on which this Agreement is signed by all parties.

DATED:

ATTEST:

CITY OF PASADENA

Mark Jomsky, CMC
City Clerk

By _____
Michael J. Beck
City Manager

APPROVED AS TO FORM:

Javan Rad
Chief Assistant City Attorney

DATED:

PASADENA COMMUNITY
ACCESS CORPORATION

By _____
Keri Stokstad
Executive Director

By _____
George Falardeau
Board Chair & President