

Intergovernmental Agreement by and Between The Nashville Education Community and Arts Television Corporation and the Metropolitan Government of Nashville and Davidson County

Whereas, historically, the Nashville Education, Community and Arts Television Corporation (NECAT), an independent, nonprofit corporation, was created by Metro ordinance to oversee the production of programming on the arts, education, and public access channels bandwidth allocated to Metro based on its franchising authority, such that these channels may be free of censorship, partisan politics, and available for all forms of public expression, community information, and educational programming for persons of all ages, pursuant to Metro Code Section 6.08.080.G.; and,

Whereas, it is the current intent of the Metropolitan Government to ensure that the public, arts, and educational access channels continue to be made available to the public; and,

Whereas, in order to facilitate this goal and enhance the quality and diversity of the programming on the arts, education, and public access channels, the Metropolitan Government by and through the Nashville Public Library (NPL) has agreed to assume responsibility for the programming of arts, education, and public access channels, along with the management of the PEG Studio (previously handled by staff of the Metropolitan Department of Information Technology Services); and,

Whereas, it is currently contemplated that this delegation of NECAT's authority to NPL would be done for a defined assessment period, to determine whether that is an efficient and creative way to enhance the programming content of this channel and serve the related public needs; and,

Whereas, towards the end of that assessment period, it is anticipated that a determination would be made as to whether more permanent changes need to be made to the arts, education, and public access channels' operations, and action could then be taken on same, as necessary; and,

Whereas, in order to enable NECAT to delegate its authority to oversee the programming of the arts, education, and public access channels to NPL, it is necessary for the parties to enter into an Intergovernmental Agreement; and,

Whereas, pursuant to the Interlocal Cooperation Act, Tenn. Code Ann. § 12-9-104:

. . . the Agencies of political subdivisions that have governing boards separate from the governing bodies of the political subdivisions may make agreements for joint or cooperative action with other such agencies and with other public agencies. The power to make joint or cooperative agreements includes any power, privilege or authority exercised or that may be exercised by each of the agencies that is a party to the agreement. Agreements between agencies of political subdivisions that have separate governing boards and other such agencies and agreements between such agencies and public agencies shall substantially conform to the requirements of this chapter. The governing bodies of such political subdivisions shall require agreements made by their agencies pursuant to this chapter to be submitted to the governing body for approval before the agreements take effect;

and,

Whereas, NECAT is an agency of a political subdivision that has a separate governing board, as referenced in TCA Section 12-9-104, allowing it to enter into an Intergovernmental or Interlocal agreement with Metro; and,

Whereas, NPL's Library Board, the Department of Information Technology Services (ITS) and the NECAT Board have all reviewed and approved this Agreement; and,

Whereas, it is accordingly in the best interest of the Metropolitan Government area that this Agreement be approved.

NOW, THEREFORE, the parties agree as follows:

1. That, to the extent they pertain to the programming of the arts, education, and public access channels, and the management of the PEG Studio, the performance of the functions of NECAT as set forth in Section 6.08.080.G. of the Metropolitan Code, including, but not limited to, the following, are hereby delegated by the NECAT Board to NPL:
 - i. To devise, establish and administer all rules, regulations and procedures pertaining to the use and schedule of the public and educational access channels;
 - ii. To hire and supervise staff of NECAT;
 - iii. To develop additional sources of funding from public and private sources, such as foundation or federal or state grants, to further public and educational programming.
 - iv. To develop and promote the use of such public access channel by citizens and all schools, colleges, universities and other organizations with educational missions within the franchise area;
 - v. . . . [to] defin[e] the mission respectively for education, community and arts television channels [and] to develop[e] programming guidelines that are compliant with applicable law, including the FCC regulations. . . .
 - vi. To perform such other functions relevant to the public and educational access channels as may be appropriate.

NECAT will fulfill its obligation to perform these functions through contracting with NPL in this Agreement for NPL and the Library Board to perform these functions on its behalf.

2. The parties understand that the ownership of PEG Studio equipment and assets, including the leasehold interest in the PEG Studio from the Tennessee Board of Regents, currently owned by Metro Information Technology Services (ITS), will be transferred to Nashville Public Library (NPL), which NECAT consents to, to the extent of its interest in these assets, if any.
3. The parties understand that ITS will transfer staff resources and PEG Studio maintenance funds to NPL, which NECAT also consents to, to the extent of its interest, if any.
4. The parties understand that ITS will transfer additional facilities maintenance funds to NPL that are used to support the PEG Studio.
5. NPL has hired a former employee of NECAT on a contract basis. It is NPL's desire that this employee would continue to do work at the PEG Studio relating to the management thereof and assist with content generation for the public access channel and training of other content creators, just as he formerly did for NECAT. He is to maintain the confidentiality of any sensitive information he has learned in the course of his employment with NECAT, however, NPL will assume responsibility for this employee's supervision and for the training of content creators, who are sometimes referred to as "members" of NECAT. This shall be subject to an understanding that it is NPL's goal to, over time, phase out the requirement of a membership fee.
6. ITS and NECAT will work closely with NPL to create a gradual phase-in of day-to-day responsibilities to NPL.
7. NPL understands that they will assume any recurring expenses for the production and maintenance of programming software and operations.
8. After transfer from ITS, NPL will retain ownership of and provide regular maintenance, repair, or replacement of broadcast equipment.
9. Notwithstanding Section 1, iii., above, NECAT may continue to engage in fundraising efforts on behalf of the arts, education, and public access channels; any funds raised by NECAT will benefit any programming or studio needs, and those funds will be donated to the Nashville Public Library Foundation for use by the library to benefit the three public access channels. In furtherance of this purpose, if funds are raised for NECAT by the Nashville Public Library Foundation, if required, NECAT shall enter into an agreement in this regard with the Nashville Public Library Foundation. NECAT may also continue to organize fundraising events such as camps at the PEG Studio, subject to coordinating with NPL for the scheduling of the same.
10. As there are ongoing NECAT commitments such as grants and funding sources, both parties understand that NECAT is committed to meeting those commitments and will need the assistance of NECAT's former employee, now a NPL contractor, to assist with those efforts throughout the calendar year 2021-2022. NECAT will retain any funds or commitments already received or in place prior to the execution of this Agreement to fulfill its obligations. NECAT will provide NPL a list of those during our transition and quarterly meetings.

11. As the term of this Agreement is an assessment period, any delegation of management or programming of the arts, education, or public access channels shall conform to the timing of this Agreement. If the parties terminate prior to expiration of the term, any agreements entered into by NPL regarding the arts, education, and public access channels will also be terminated. NPL agrees to include such termination language in any agreement, MOU, or contracts made during the assessment period.
12. As the NECAT producers are a key part of the arts, education, and public access channels, NPL will set aside space on these channels for member-produced programming; the specific amount of time to be set by NPL during the initial phase-in of day-to-day responsibilities to NPL.
13. Final location of broadcast equipment will be at the discretion of NPL.
14. All parties agree to attend meetings (at least quarterly) to discuss ongoing issues and future initiatives.
15. NPL will prepare a quarterly report to be provided to NECAT. This will be presented at the quarterly meeting of the parties to review the performance of this Agreement, including the delegation of the responsibilities listed above, including but not limited to:
 - a. use and schedule of the public access, arts, and education channels;
 - b. funding, as needed;
 - c. programming content;
 - d. reporting and metrics;
 - e. operations; and
 - f. manage membership and training.
16. The term of this Agreement shall be for a three-year term, although the parties may mutually agree to terminate the term at any time after ninety (90) business days from their agreement to do so.
17. The parties all agree that after the end of this three-year long term, this Agreement may be extended by mutual consent of the parties for two (2) additional terms of one year each.
18. Notifications: The points of contact for the parties shall be:

For NECAT: Board Chair of NECAT
Seannalyn Brandmeir
seannalyn@gmail.com
Administrative POC for NECAT

For Metro ITS: Keith Durbin, Director
P.O. Box 196300
Nashville, TN 37219-6300(615) 862-6220
Keith. Durbin@nashville.gov

For Metro Libraries: Lee Boulie
Assistant Director for Collections and Technology
Nashville Public Library
615 Church Street

Nashville, Tennessee 37219
Lee.Boulie@nashville.gov

WHEREFORE, the parties accordingly acknowledge their agreement to the above by affixing their signatures hereunder.

**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

**NASHVILLE EDUCATION, COMMUNITY
AND ARTS TELEVISION CORPORATION**

METROPOLITAN MAYOR

Seamus Brandmeir

CHAIR

ATTEST:

November 30, 2021

DATE

METROPOLITAN CLERK

DATE

RECOMMENDED BY:

Kent Oliver

Kent Oliver, Director, Nashville Public Library

RECOMMENDED BY:

Keith Durbin, Director, Information Technology
Services

APPROVED AS TO AVAILABILITY OF FUNDS:

Kelly Flannery, Director, Department of
Finance

APPROVED AS TO FORM & LEGALITY:

Assistant Metropolitan Attorney

APPROVED AS TO RISK AND INSURANCE:

Balogun Cobb, Director, Insurance Division