

**AGREEMENT BETWEEN
THE MUNICIPALITIES OF KEENE, MARLBOROUGH AND SWANZEY, NEW
HAMPSHIRE
AND
CHESHIRE TV**

This Agreement is made this 23rd day of January, 2006, by and between the Franchising Authorities of the municipalities of Keene, Marlborough and Swanzey, New Hampshire, municipal corporations ("Municipalities"), and Cheshire TV, a nonprofit corporation ("CTV"), which parties agree as follows:

RECITALS

1. The Municipalities desire to provide support for the use of cable television public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The Municipalities have each granted a separate cable television franchise to Time Warner Cable, Inc. ("TWC") to operate a cable television system in the Municipalities.
4. The franchise agreement with TWC provides that certain channel capacities be provided for PEG access.
5. The franchise agreement with TWC provides that certain in-kind services shall be provided by TWC to support the operations of the PEG access facilities, equipment and channels.
6. The Municipalities have determined that they will provide support for PEG access through the dedication of their franchise fees from TWC to said PEG Access purposes.
7. CTV is presently negotiating a lease agreement with the City of Keene to permit CTV to use physical space within the Pond Mansion to operate the PEG Access channels and other digital media services.
8. CTV, as the access management entity designated by the Municipalities, has indicated its interest in serving the community as an electronic fora for speech by providing PEG access programming and other digital media services.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

Section 1---DESIGNATION

Subject to the following terms and conditions, the Franchising Authorities hereby initially designate CTV as the designated PEG Access Corporation to provide services to PEG Access Users in the Municipalities.

SECTION 2---SCOPE OF SERVICES. In exchange for the funding provided by the Municipalities to CTV, pursuant to this Agreement, CTV shall provide the following services:

- A. *OPERATE PUBLIC ACCESS CABLE CHANNEL(S).* Operate the public access cable channel(s) for public/community access programming purposes with the primary purpose being to administer, coordinate, and assist those requesting access on a non-discriminatory basis.
- B. *OPERATE THE EDUCATIONAL AND GOVERNMENT ACCESS CHANNELS.* Operate the educational and government access channel(s) for educational and governmental access programming purposes with the primary purpose being to administer, coordinate and assist the Municipalities (government access) and educational institutions (educational access) requesting access on a non-discriminatory basis.
- C. *OPERATE A COMMUNITY ACCESS CENTER.* Manage a video production facility and equipment, available for use at such hours and times as are reasonably determined by CTV. Access to equipment and facilities shall be open to all those who satisfactorily complete training class(es) provided by CTV and/or who receive a certification from the CTV, identifying said user(s) as having satisfied training requirements through means other than CTV training classes.
- D. *PROVIDE EQUAL ACCESS.* Provide access to the use of the equipment, facilities, channels, and services provided hereunder on a non-discriminatory basis to all members of the community for non-commercial programming purposes, whether individuals, groups, or organizations, on a first-come, first-served non-discriminatory basis, pursuant to operating rules promulgated by CTV.
- E. *DEVELOP OPERATING POLICIES AND PROCEDURES.* Develop policies and procedures for use and operation of the PEG access equipment, facilities, and channel(s) and file such policies and procedures with the Municipalities.
- F. *COMPLIANCE WITH LAWS RULES, AND REGULATIONS.* Administer the PEG access channel(s) and facilities in compliance with applicable laws, rules, regulations, and in compliance with the franchise agreement between the Municipalities and TWC or its successor(s).

- G. *TRAINING*. Train employees of the Municipalities, residents, and when requested, school or college employees in the techniques of video production, and provide technical advise in the execution of productions.
- H. *PLAYBACK/CABLECAST*. Provide for the playback/cablecasting of programs on the PEG access channel(s). Upon the completion and opening of the access center, but no later than June 1, 2006, CTV shall commence cablecasting local original, replayed and/or other PEG Access programming.
- I. *MAINTENANCE OF EQUIPMENT*. Provide regular maintenance and repair of all video equipment purchased with monies received pursuant to this Agreement and/or donated, loaned, or leased to CTV by the Municipalities.
- J. *SPECIAL NEEDS GROUPS*. Support special needs groups, including but not limited to the hearing impaired, in program production through training and other means.
- K. *PROMOTION*. Actively promote the use and benefit of the PEG access channel(s) and facilities to cable subscribers, the public, PEG access users, and TWC.
- L. *OTHER ACTIVITIES*. Undertake other PEG access programming activities and services as deemed appropriate by CTV and consistent with the obligation to facilitate and promote access programming and provide non-discriminatory access.

SECTION 3---CHANNELS OPEN TO PUBLIC: CTV agrees to keep the PEG access channel(s) open to all potential users regardless of their viewpoint, subject to FCC regulations and other relevant laws. Neither the Municipalities, nor the Cable Company(s), nor CTV shall have the authority to control the content of programming placed on the public access channel(s) so long as such programming is lawful. CTV may develop and enforce policies and procedures which are designed to promote local use of the PEG Access channel(s) and make programming accessible to the viewing public, consistent with such time, manner, and place regulations as are appropriate and lawful to provide for and promote use of PEG access channels, equipment and facilities.

SECTION 4---INDEMNIFICATION. CTV shall indemnify, defend, and hold harmless the Municipalities, its officers, agents, and employees and volunteers from and against any and all claims, suits, actions, causes of action, losses, damage, or liabilities of any kind, nature or description, including, payment of litigation costs and attorneys' fees, brought by any person or persons for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, sustained by or accruing to any person or persons, howsoever the same may be caused, directly or indirectly arising or resulting from any alleged acts or omission of CTV, its officers, employees, agents or subcontractors arising out of or resulting from the performance of this Agreement. CTV

shall indemnify and hold harmless Municipalities, their officers, agents, employees and volunteers from and against any and all claims or other injury, including costs of litigation and attorney's fees, arising from or in connection with claims or loss or damage to person or property arising out of the failure to comply with any applicable laws, rules, regulations or other requirements of local, state or federal authorities, for claims of libel, slander, invasions of privacy, or infringement of common law or statutory copyright, for breach of contract or other injury or damage in law or at equity which claims, directly or indirectly, result from CTV use of PEG access channels, funds, equipment, facilities or staff granted under this Agreement.

SECTION 5---COPYRIGHT CLEARANCE. Before cablecasting video transmissions, CTV shall require all users to agree in writing that they shall make all appropriate and lawful arrangements to obtain all required lawful rights to all material cablecast and clearances from broadcast stations, networks, sponsors, music licensing organizations' representatives, and/or without limitation from the foregoing, any and all other persons as may be necessary to transmit its or their program material over the PEG access channels that are operated and managed by CTV. CTV shall maintain for three (3) years for the Municipalities' inspection, upon reasonable notice by Municipalities, copies of all such user agreements.

SECTION 6---COPYRIGHT AND OWNERSHIP. Except for coverage of any municipal and/or public meetings, CTV shall own the copyright of any programs which it may choose from time to time to produce. Copyright of programming produced by the public shall be held by such person(s) who produces said programming.

SECTION 7---DISTRIBUTION RIGHTS.

A. CTV shall require that all programs produced with funds, equipment, facilities, or staff granted under this Agreement shall be distributed on the PEG access channels which use is authorized by this Agreement. This subparagraph shall not be interpreted to restrict other distribution (beyond distribution on channels authorized by this Agreement), so long as such other distribution is consistent with any pertinent guidelines established in the PEG access operating policies and procedures.

B. At least at the beginning and end of each day that video programming is cablecast on the PEG access channels which use is authorized by this Agreement, CTV shall display a credit stating "Partial funding for the operation of this channel is provided by the Municipalities of Keene, Marlborough and Swanzey." Such credit shall also state that opinions expressed in PEG access programs are the sole responsibility of the program producers.

SECTION 8---EQUIPMENT AND FACILITIES.

- A. CTV shall be responsible for maintenance of all equipment owned, leased or loaned to it under this Agreement or purchased with funds provided pursuant to this Agreement.
- B. CTV shall own all equipment and facilities acquired by it and purchased with funds received pursuant to this Agreement, except that upon termination, non-renewal or expiration of this Agreement, and/or the bankruptcy of CTV, all such equipment or facilities purchased with funds received pursuant to this Agreement shall become the property of the Municipalities in proportion to the average number of cable television subscribers in the Municipalities during the term of this Agreement or, in the event of bankruptcy, from the effective date of this Agreement to the date CTV files for bankruptcy. To secure all of its obligations under this Agreement, CTV hereby grants to the Municipalities a security interest in all of the assets and interests owned or hereafter acquired by CTV with funds provided by the Municipalities, and the proceeds thereof, including but not limited to, CTV deposit accounts and inventory, and all equipment and fixtures, that are or were acquired with funds proportionately provided by the Municipalities. CTV agrees to take all steps reasonably requested by the Municipalities to perfect and enforce the Municipalities' security interest, including the execution and processing of financing statements and continuation statements under the Federal Uniform Commercial Code. CTV will also notify any institution with which it now or hereafter maintains any deposit account of the existence of the Municipalities' security interest in the account. The Municipalities agree to discuss with CTV in good faith the subordination of their interest, if necessary and in writing, to finance the purchase of specific equipment or property. The subordination shall only be with respect to the specific equipment or property that CTV might wish to finance.
- C. Upon the dissolution of CTV, it shall, subject to the approval of the Municipalities, transfer all assets of CTV representing Municipalities-funded equipment and facilities, and/or the proceeds of either to the Municipalities in proportion to the average number of cable television subscribers in the Municipalities from the effective date of this Agreement to the date of dissolution, or at the Municipalities' option, to such organization or organizations designated by all three (3) the Municipalities to manage access which shall at the time qualify as a tax exempt organization(s) under Section 501(c)(3) of the Internal Revenue Code (or the corresponding provisions of any future United States Internal Revenue Law). In the event that there is no agreement on a successor organization, then the assets shall be distributed to each Municipality as required herein.

SECTION 9---INSURANCE. CTV shall maintain in full force and effect at all times during the term of this Agreement insurance as required by this Section. All such insurance shall be on an occurrence basis and the cost of such insurance shall be borne by CTV.

- A. *COMPREHENSIVE LIABILITY INSURANCE.* Comprehensive liability insurance, including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits of such coverage shall be: (1) bodily injury including death, \$1,000,000 for each person, each occurrence and aggregate; (2) property damage, \$1,000,000 for each occurrence and aggregate.
- B. *EQUIPMENT INSURANCE.* Insurance shall be maintained on all equipment and facilities, including fixtures, funded in whole or in part under this Agreement to replacement cost. The insurance shall include, at a minimum, insurance against loss or damage beyond the user's control, theft, fire or natural catastrophe. Municipalities shall be shown as lien holder on all policies.
- C. *WORKERS' COMPENSATION.* Full Workers' Compensation Insurance and Employer's Liability with limits as required by (State) law with an insurance carrier satisfactory to the Municipalities.
- D. *CABLECASTER'S ERRORS AND OMISSION INSURANCE.* Insurance shall be maintained to cover the content of productions which are cablecast on the access channel in, at minimum, the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress, invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover individual access producers.
- E. *MUNICIPALITIES AS CO-INSURED OR ADDITIONAL INSURED.* The Municipalities shall be named as a co-insured or additional insured on all aforementioned insurance coverages. The policies shall provide that no cancellation, major change in coverage or expiration may be affected by the insurance company or CTV without first giving the Municipalities thirty (30) days written notice prior to the effective date of such cancellation or change in coverage.
- F. *NOTIFICATION OF COVERAGE.* CTV shall file with the Municipalities proof of insurance coverage as follows: (1) Comprehensive Liability and Workers' Compensation upon commencement of the employment of the Executive Director; (2) equipment insurance upon the acquisition of any equipment; (3) cablecaster's error and omission insurance within thirty (30) days of the commencement of cablecasting of programming on the designated access channel.

SECTION 10---NON-DISCRIMINATION IN EMPLOYMENT AND SERVICE.

- A. CTV shall not discriminate against any person, employee or applicant for employment or subcontractor on the basis of race, color, creed, religion, sex, sexual preference, marital status, ancestry, national origin or physical or mental handicap.
- B. CTV shall not discriminate in the delivery of PEG access-related services hereto on the basis on race, color, creed, religion, sex, sexual preference, marital status, an ancestry, national origin or physical or mental handicap.

SECTION 11---INDEPENDENT CONTRACTOR. It is understood and agreed that CTV is an independent contractor and that no relationship of principal/agent or employer/employee exists between the Municipalities and CTV. If in the performance of this Agreement, any third persons are employed by CTV, such persons shall be entirely and exclusively under the control, direction and supervision of CTV. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment shall be determined by CTV and the Municipalities shall have no right or authority over such persons or terms of employment.

SECTION 12---ASSIGNMENT AND SUBLETTING. Neither this Agreement nor any interest herein shall be assigned or transferred by CTV, except as expressly authorized in advance and in writing by Municipalities.

SECTION 13---ANNUAL REPORTS. Prior to October 15th of each year, or such other date mutually agreed-upon in writing by the parties hereto, CTV shall submit to Municipalities a written annual report for the preceding fiscal year (July 1 - June 30). This report shall contain, at a minimum, the following information:

- A. Statistics on programming and services provided;
- B. Current and complete listing of CTV's Board of Directors; and
- C. Year-end financial statements prepared by an independent certified public accountant.

SECTION 14---RECORDS, FINANCIAL REPORTING.

CTV shall:

- A) adopt strict internal controls and accounting policies,
- B) contract for financial statements with an Independent Certified Public Accountant on an annual basis, open it's records to the Municipalities for inspection, and comply with all State of New Hampshire and federal financial reporting requirements,
- C) maintain all necessary books and records, in accordance with generally accepted accounting principles,
- D) determine the level of professional services required by an independent Certified Public Accountant.

SECTION 15---FUNDING AND OTHER RESOURCES. The Municipalities agree to make the following funds and resources available to CTV:

A. TWC has dedicated certain channel capacities (channel bandwidth on the cable system) for PEG access use. The Municipalities agree to permit CTV to manage said channel capacities for PEG access programming purposes.

B. The Municipalities agree to provide to CTV all funds that they receive from TWC for PEG access equipment purposes within thirty (30) days of receipt of such funds from TWC. CTV shall utilize such funds for the purchase of equipment to be used for the purposes delineated in this Agreement.

SECTION 16---ANNUAL PLAN AND BUDGET.

A. On or before June 30 of each year in which this Agreement is in effect, CTV shall provide to the Municipalities an Annual Plan and Budget outlining activities and programs planned for the following fiscal year with funds and channel(s) received from the Municipalities. Such plan shall contain:

- 1. A statement of anticipated number of hours of local original PEG access programming;
- 2. Training classes to be offered and frequency of classes;
- 3. Other access activities planned by CTV; and
- 4. A detailed operating and capital equipment and facilities budget.

SECTION 17---EXPENDITURE OF FUNDS. CTV shall spend funds received from the Municipalities solely for the purposes listed in its Annual Plan and Budget and Section 2 (“Scope of Services”) of this Agreement. Funds not expended in the year covered by the Annual Budget and Activities Plan shall be carried over by CTV into succeeding years. Upon termination of this Agreement all funds of any kind received from Municipalities and not expended by CTV shall be returned to the Municipalities in proportion to the average number of cable television subscribers in the Municipalities during the term of this Agreement. CTV shall provide for such fiscal control and accounting procedures as are necessary to assure proper disbursement and accounting for funds received from Municipalities.

SECTION 18---FUNDING FROM OTHER SOURCES. CTV shall, during the course of this Agreement, make its best efforts to raise supplemental funds from other sources, including, but not limited to fundraising activities.

SECTION 19---ANNUAL HEARING

(a) On an annual basis, and at least thirty (30) days after each Franchising Authority has received CTV’s Annual Report, subject to Section 13 above, CTV shall meet with the Franchising Authority for the purpose of reviewing CTV’s operations, budget and PEG Access programming over the previous year, as well as CTV’s annual Plan and Budget for the upcoming year (See Section 16 supra).

(b) CTV shall provide such information as is reasonably requested by each Franchising Authority.

SECTION 20---CTV BOARD OF DIRECTORS

(a) At all times during this Agreement, the number of Board of Directors of CTV from each of the Municipalities shall be in proportion to the total number of cable television subscribers in the Municipalities. For purposes of this Section 20, the Mayor in Keene and the Selectmen in Marlborough and Swanzey shall themselves select and appoint their representatives to the CTV Board. For further purposes of this Section 20, the Municipalities shall report to CTV, in writing, the number of subscribers in each community as of March 15th of each year of this Agreement.

(b) In the event that any Municipality cannot appoint a representative to the CTV Board hereunder, the CTV Board shall have the right to fill such seat for such appointed term.

SECTION 21---TERM OF AGREEMENT. This Agreement shall be for a period of five (5) years commencing on January 23, 2005 and ending on January 22, 2010 unless terminated earlier, as provided in this Agreement. This Agreement may be extended, by mutual agreement of the Municipalities and CTV, in writing, for additional periods of time, subject to, among other things, the satisfactory performance by CTV of the requirements in this Agreement.

SECTION 22---TERMINATION OF AGREEMENT: TRANSFER OF ASSETS.

A. The Municipalities shall have the right upon thirty (30) days written notice, to CTV to terminate this Agreement for:

1. Breach of any provision of this Agreement by CTV;
2. Malfeasance or misfeasance; or
3. Loss of 501(c)(3) status by CTV.

B. CTV may avoid termination by curing any such breach, pursuant to paragraph (A)(1) directly above, to the satisfaction of the Municipalities within thirty (30) days of notification or within another time frame agreed to by the Municipalities and CTV.

C. Upon termination of this Agreement, CTV shall immediately transfer to the Municipalities all equipment, real property, fixtures, contracts, leases, deposit accounts or other assets received by or purchased by CTV with funds received pursuant to this Agreement, in proportion to the average number of cable television subscribers in the Municipalities during the term of this Agreement.

SECTION 23---COOPERATION. Each party agrees to execute all documents and do all things necessary and appropriate in a timely and reasonable manner in order to carry out the provisions of this Agreement.

SECTION 24---APPLICABLE LAW. This Agreement shall be interpreted and enforced under the laws of the State of New Hampshire.

SECTION 25---NOTICES. All notices and other communications to be given by either party may be given in writing, depositing the same in the United States mail, postage prepaid and addressed to the appropriate party as follows:

Agreement Between Keene, Swanzey, Marlborough and Cheshire TV
Mark-Up By PJE Dated December 14, 2005

To Municipalities of Keene, Marlborough and Swanzey, NH:

To Keene:

City of Keene
3 Washington Street
Keene, NH 03431
ATTN: IMS Director

To CTV:


Cheshire TV
350 Marlboro St.
Keene, NH 03431
ATTN: Luca Paris, Secretary

Any party may change its address for notice by written notice to the other party at any time.

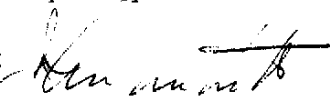
SECTION 26---ENTIRE AGREEMENT. This Agreement is the entire agreement of the parties and supersedes all prior negotiations and agreements whether written or oral. This Agreement may be amended only by written agreement and no purported oral amendment to this Agreement shall be valid.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

MUNICIPALITY OF KEENE,
Municipal corporation

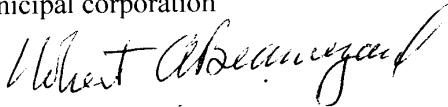
By: 
Date: 1/27/06

MUNICIPALITY OF MARLBOROUGH,
Municipal corporation

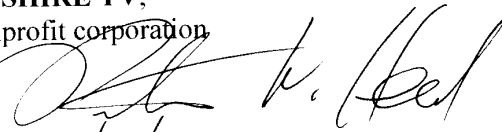
By: 
Date: 1/25/06

Agreement Between Keene, Swanzey, Marlborough and Cheshire TV
Mark-Up By PJE Dated December 14, 2005

MUNICIPALITY OF SWANZEY,
Municipal corporation

By: 
Date: 1-25-06

CHESHIRE TV,
a nonprofit corporation

By: 
Date: 1/25/06