



# City of Keene

*New Hampshire*

May 7, 2015

Tom Cook  
Cheshire TV  
76 Winter Street  
Keene, NH 03431

Tom,

Thank you for your response letter of April 29, 2015. We appreciate your attention to these important matters and your cooperation in the mutual responsibility the City and Cheshire TV share in the stewardship of the Time Warner franchise fee funds.

I have signed the Operating Agreement and enclosed an original for your records. We sincerely appreciate the services Cheshire TV provides to this community and look forward to working together into the future.

Sincerely,

John MacLean  
City Manager

:Enclosure

**AGREEMENT BETWEEN  
THE CITY OF KEENE, NEW HAMPSHIRE  
AND  
CHESHIRE TV**

This Agreement is made this 1<sup>st</sup> th day of December, 2014, by and between the City of Keene, New Hampshire, a municipal corporation ("City" or "Franchising Authority"), and Cheshire TV, a New Hampshire nonprofit corporation recognized as a tax exempt entity under section 501(c) (3) of the Internal Revenue Code ("CTV"), who agree as follows:

**RECITALS**

1. The City desires to provide support for the use of cable television public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The City has granted a franchise to Time Warner Cable, Inc. ("TWC" or "Cable Company") to operate a cable television system in the City.
3. The franchise agreement with TWC provides that certain channel capacities be provided for PEG access.
4. 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.
5. The franchise fee is defined as the payments made by TWC to the franchising Authority as consideration for the franchise agreements with TWC.
6. CTV, as the access management entity designated by the City, has indicated its interest in serving the community by providing PEG access programming and services.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and in any attachment(s) hereto, the parties agree as follows:

**SECTION 1---DESIGNATION**

Subject to the following terms and conditions, the Franchising Authority hereby initially designates CTV as the designated PEG Access Corporation to provide services to PEG Access Users in the City.

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

- A. *OPERATE PUBLIC ACCESS CABLE CHANNEL(S).* Subject to Section 15 of this agreement, operate the public access cable channel(s) without interruption 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.* Subject to Section 15 of this agreement, operate the educational and government access channel(s) without interruption for educational and governmental access programming purposes with the primary purpose being to administer, coordinate and assist the City (government access) and educational institutions (educational access) requesting access on a non-discriminatory basis.
  
- C. *RECORD AND CABLECAST CITY OF KEENE MEETINGS.* Provide staff, training, equipment maintenance, production services and technical expertise for the gavel-to-gavel capture, live cablecasting and rebroadcasting of City of Keene City Council, Council Standing Committee, and Planning Board meetings and, when possible, other public meetings of the Keene City Council, subject to the following:
  - 1. for cablecasting to the public on CTV, broadcast and/or recorded only when meetings are in session and not recessed, adjourned, or in non-public session,
  - 2. for which video and audio broadcasting and recording are to be disabled by CTV when meetings are recessed, adjourned, or in non-public session,
  - 3. Recorded on durable media for future access and preservation purposes,
  - 4. Performed by CTV personnel not under the influence of intoxicants or illegal drugs,
  - 5. With camera shots and angles that shall be limited to the participating public body members and only those speaking that have been formally recognized by the presiding authority and are located at a City-designated speaking location or witness stand,
  - 6. without editorial comments or omissions,
  - 7. for live broadcast,
  - 8. for broadcast a minimum of two times within one week of recording, and
  - 9. for live broadcast of special meetings at the request of the City Clerk upon at least one week notice.
  - 10. CTV shall broadcast each and every City Council, City Council Standing Committee and Planning Board meeting (together "City Meetings") without charge to the City for up to a cumulative total of 175 City Meeting hours ("Total Hours") per calendar year. In the event that the Total Hours exceeds that number in any given calendar year, then the City shall pay CTV an hourly rate of \$17.50 ("Hourly Rate"), per CTV employee per hour for a maximum of two employees for City Council meetings, and one employee for City

Council Standing Committee and Planning Board meetings. The Hourly Rate shall begin upon the commencement of the City Meeting and shall cease upon the conclusion of the City Meeting and include an additional two hours per meeting for setup and cleanup purposes. In the event that the City requests CTV to attend and to broadcast any non-City Meetings, the City shall pay CTV the Hourly Rate under the conditions stated above for each CTV employee required to attend the non-City Meeting up to a maximum of three employees. The Hourly Rate shall remain fixed during the term of this Agreement.

- D. *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 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.
- E. *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.
- F. *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 City.
- G. *COMPLIANCE WITH LAWS, RULES AND REGULATIONS.* Administer the PEG access channel(s) and facilities and conduct its operations all in compliance with applicable state and federal laws, rules and regulations, including laws governing the operation of a 501(c)(3) corporation as defined by the Internal Revenue Code, and in compliance with the franchise agreement between the City and TWC or its successor(s).
- H. *TRAINING.* Train employees of the City, residents, and when requested, school or college employees in the techniques of video production, and provide technical advice in the execution of productions.
- I. *PLAYBACK/CABLECAST.* Provide for the playback/cablecasting of programs on the PEG access channel(s). CTV shall cablecast local original, replayed and/or other PEG Access programming.
- J. *MAINTENANCE OF EQUIPMENT.* Provide regular maintenance and repair of all equipment purchased with monies received pursuant to this Agreement and/or donated, loaned, or leased to CTV by the City.

- K. *SPECIAL NEEDS GROUPS*. Support special needs groups, including but not limited to the hearing impaired, in program production through training and other means.
- L. *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.
- M. *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 applicable FCC regulations and other relevant laws. Neither the City, 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 shall 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 City, its officials, officers, agents, 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, persons or entities for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, including but not limited to copy right infringement or intellectual property claims, sustained by or accruing to any person, persons, or entities, howsoever the same may be caused, directly or indirectly arising or resulting from any alleged acts or omission of CTV, its officers, employees, agents, producers or subcontractors arising out of or resulting from the performance of this Agreement. CTV shall also indemnify and hold harmless City, its officials, 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 Authority, 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 or otherwise.

**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 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 five (5) years for the City' inspection, upon reasonable notice by City, copies of all such user agreements.

**SECTION 6---COPYRIGHT AND OWNERSHIP.** Except for recordings of any City and/or public meetings or hearings, for which the copyright and ownership shall remain with the City, 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 whose use is authorized by this Agreement, CTV shall display a credit stating "Partial funding for the operation of this channel is provided by the City of Keene." 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. The City shall own all equipment installed in City facilities (other than that leased by CTV for their own operations) and purchased with franchise fee funds. CTV shall own all other 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 City. To secure all of its obligations under this Agreement, CTV hereby grants to the City a security interest in all of the assets and interests owned or hereafter acquired by CTV with funds provided by the City, 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 provided by the City. CTV agrees to take all steps reasonably requested by the City to perfect and enforce the City' 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 whom it now or hereafter maintains any deposit account of the existence of the City's security interest in the account, and to provide evidence of such notification upon request to the City. The City agrees 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 City, transfer all assets of CTV representing City-funded equipment and facilities, and/or the proceeds of either to the City, or at the City's option, to such organization or organizations designated by the City 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 the City 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. City 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 City.
- 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. *CITY AS CO-INSURED OR ADDITIONAL INSURED.* The City shall be named as a co-insured or additional insured on all aforementioned insurance coverage and shall be provided with an appropriate written endorsement. 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 City thirty (30) days written notice prior to the effective date of such cancellation or change in coverage.

A. *NOTIFICATION OF COVERAGE.* CTV shall notify the Franchising Authority in writing within five (5) business days of any lapse, proposed termination, actual termination, or material change to any of the following insurance policies which must otherwise be maintained by CTV during the term of this Agreement: (1) General Liability Insurance in the minimum amount of one million dollars; (2) Workers' Compensation; (3) equipment; (4) cablecaster's errors and omissions.

**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, veteran status, pregnancy, physical or mental disability, or any other classification prohibited by law.

B. CTV shall not discriminate in the delivery of PEG access-related services hereto on the basis of race, color, creed, religion, sex, sexual preference, marital status, ancestry, national origin, veterans status, pregnancy, physical or mental disability, or any other classification prohibited by law.

**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 City 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 City 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 the City.



**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 the City through the governing body 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;
- C. A complete listing of all equipment and facilities acquired by CTV since inception of the original Agreement and purchased with funds received pursuant to this Agreement.
- D. Proof of insurance coverage as required by this Agreement.
- E. Year-end financial statements audited by an independent certified public accountant.

**SECTION 14---RECORDS, FINANCIAL REPORTING.**

CTV shall:

- A. Adopt strict internal controls and accounting policies.
- B. Maintain all necessary books and records in accordance with generally accepted accounting principles,
- C. Contract for independent third party, bonded bookkeeping services for the preparation of payroll and all associated reporting, payment of accounts payable as authorized by the Executive Director, preparation of quarterly and annual management reports, and monthly bank reconciliation. The bookkeeping service will prepare payments, and checks will be signed by the Treasurer (the Chairman of the Board of Directors will serve as an alternate signer in the Treasurer's absence). In the event that business transactions are conducted via debit or credit card, a monthly detailed transaction or expenditure report will be prepared by the bookkeeping service, matched with receipts, and reviewed and approved on a monthly basis by the Treasurer.
- D. The Treasurer will present quarterly financial management reports to the Finance Committee for review and approval, which will include an income and expense summary, interim balance sheet, and a detailed and descriptive listing of payments made.
- E. Contract for audited financial statements to be prepared by an Independent Certified Public Accountant on an annual basis, open its financial records to the

City for inspection, and comply with all State of New Hampshire and federal financial reporting requirements.

### **SECTION 15---COMMUNICATION**

CTV shall notify the City in writing and with a minimum ten (10) days prior notice of any situations which may cause CTV to be, or become, in violation of the terms of this agreement, such as, but not limited to, insufficient funds to meet current obligations or potential interruptions in service. Such notice shall be deemed received by the City upon written confirmation of receipt by the City.

CTV shall notify the City in writing of any withdrawals from the contingency fund and or the capital reserve fund (referenced in Sections 16 and 18), within ten (10) business days after such a withdrawal.

**SECTION 16---FUNDING AND OTHER RESOURCES.** The City agrees 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 City agrees to permit CTV to manage said channel capacities for PEG access programming purposes.
- B. The City shall provide a portion of the Cable Franchise Fee received from TWC for financial support for CTV operations. The franchise fee remitted by TWC to the City pursuant to the terms of the Franchise Agreement between the City and TWC on a generally monthly basis will be remitted by the City to CTV less an amount equal to 10% of the total franchise fee to be retained by the City.
  1. Recognizing CTV's business need for predictable cash flow and that the receipt by the City of the Cable Franchise Fee due from TWC is governed by a contractual relationship between the City and TWC, the City shall remit to CTV by the 25<sup>th</sup> of each month \$14,650 (an estimated portion of monthly franchise fees due CTV based on an average of franchise fee receipts from March through August 2012 apportioned to CTV) less rent and utility costs invoiced by the City pursuant to any lease agreement between the City and CTV ("Monthly Payment") and as may be adjusted from time to time due to changes in the Franchise Fee upon thirty (30) days notice.
  2. Semi-annually, in July and December, the City shall reconcile actual Cable Franchise Fee receipts supported by monthly reports issued, by TWC to remittances pursuant to Section 16.B.1 of this Agreement to CTV. The reconciling report shall be provided to CTV. Any resulting adjustments either increasing or decreasing the portion of franchise fees due CTV shall be applied to the next regularly scheduled Monthly Payment.

3. In the event that there is a significant change in TWC subscriber revenue or the Cable Franchise Fee, or anticipated franchise fees are not received from TWC, or in the event that CTV is not in compliance with the terms of this Agreement, the City may suspend regular Monthly Payments to CTV as described above. The City shall have the right to recalculate and reestablish a new monthly payment, or reinstate the Monthly Payment to CTV upon the receipt of cable franchise fees from TWC, or CTVs compliance with the Agreement, within ten (10) business days of either event.
- E. The City may, in its sole discretion, withhold payment of franchise fees if CTV is in violation of any of the terms of this agreement, including but not limited to meeting the reporting requirements expressed in Section 13 and Section 17 of this Agreement and providing uninterrupted PEG broadcasts and programming. When payments of the franchise fees are withheld by the City, payments may be restored by the City when CTV remedies any violation to the satisfaction of the City.
- F. Subject to the provisions of Section 29 below, CTV shall maintain a contingency fund with a minimum balance equal to five (5) percent of total annual CTV revenues as defined by the prior year audited financial statements. CTV shall notify the City in writing upon any withdrawal from the contingency fund in accordance with Section 15, and shall restore the fund balance to five (5) percent of annual CTV revenues within six (6) months of any withdrawal.

#### **SECTION 17---ANNUAL PLAN AND BUDGET.**

- A. On or before June 1<sup>st</sup> of each year in which this Agreement is in effect, CTV shall provide to the City an Annual Plan and Budget outlining activities and programs planned for the following fiscal year with funds and channel(s) received from the City. Such plan shall contain:
  1. A statement of anticipated number of hours of local original PEG access programming;
  2. Training services to be offered;
  3. Other access activities planned by CTV; and
  4. A detailed operating and capital equipment and facilities budget.

#### **SECTION 18--EXPENDITURE OF FUNDS.**

- A. CTV shall spend funds received from the City 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 may be carried over by CTV into succeeding years. Upon termination of this

Agreement all funds of any kind received from the City and not expended by CTV shall be returned to the City. CTV shall provide for such fiscal control and accounting procedures as are necessary to assure proper disbursement and accounting for funds received from the City.

- B. Payroll shall be prepared on a regular basis upon presentation of signed time cards approved by the Executive Director. Payroll payments will be approved and signed by the Treasurer. Changes in rates of pay and benefit packages will be authorized by the Board of Directors upon recommendation of the Finance Committee.
- C. CTV employees shall only be compensated for CTV assigned work and not for personal projects that are not required of them as CTV employees.
- D. Subject to the provisions of Section 29 below, CTV shall establish a capital reserve fund to fund the orderly replacement and upgrade of all equipment needed to operate the PEG access channel. To support the annual contributions into the fund and withdrawals from the fund, CTV shall prepare a full inventory of all equipment, identifying the anticipated useful life of each piece, the expected replacement cost and expected date of replacement. CTV shall notify the City in writing upon any withdrawal from the reserve fund in accordance with Section 15.

**SECTION 19---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 20---ANNUAL MEETING.**

- A. On an annual basis, and at least thirty (30) days after each Franchising Authority has received CTV's Annual Plan and Budget, subject to Section 16 above, CTV shall meet with each 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 in addition to the information required by this Agreement as is reasonably requested by the Franchising Authority.

**SECTION 21---CTV BOARD OF DIRECTORS**

- A. The City may appoint a representative to the Board of Directors of CTV who shall have the right to vote. For purposes of this Section 20, the Mayor in Keene shall select and appoint a representative to the CTV Board, which representative may be an elected official.

B. In the event that the City cannot or chooses not to appoint a representative to the CTV Board by September 30th of each calendar year, the CTV Board shall have the right to fill such seat for such appointed term.

C. Members of the CTV Board of Directors shall not also be employed by CTV.

**SECTION 22---TERM OF AGREEMENT.** This Agreement shall be for a period of three (3) years commencing on December 1, 2014, and ending at midnight on November 30, 2017, unless terminated earlier, as provided in this Agreement. This Agreement may be extended by mutual agreement of the City and CTV, in writing, for additional one (1) year periods of time, subject to, among other things, the satisfactory performance by CTV of the requirements of this Agreement.

**SECTION 23---TERMINATION OF AGREEMENT: TRANSFER OF ASSETS.**

A. The City 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 to the satisfaction of the City within thirty (30) days of notification or within another time frame agreed to by the City.

C. Upon termination of this Agreement, CTV shall immediately transfer to the City 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.

D. Upon termination of this Agreement, CTV shall surrender to the City the lease of any premises owed by the City then leased to CTV by the City regardless of the term of any such lease.

**SECTION 24---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 25---APPLICABLE LAW.** This Agreement shall be interpreted and enforced under the laws of the State of New Hampshire.

**SECTION 26---NOTICES.** All notices and other communications to be given by either party shall be given in writing, depositing the same in the United States mail, postage prepaid and addressed to the appropriate party as follows:

To City of Keene, NH:

To Keene:  
City of Keene  
3 Washington Street  
Keene, NH 03431  
ATTN: John MacLean, City Manager

To CTV:  
Cheshire TV  
PO Box 903  
Keene, NH 03431  
ATTN: Lee Perkins, Executive Director

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

**SECTION 27 --- FORCE MAJURE**

Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused (I) by causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, and carriers, or party to substantially meet its performance obligations under this Agreement, provided that, as a condition to the claim of non-liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

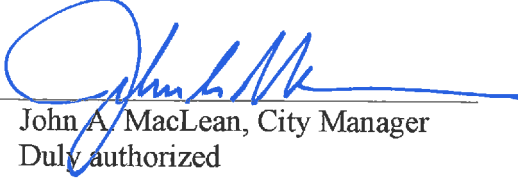
**SECTION 28---ENTIRE AGREEMENT.** This Agreement, including any lease of real property owned by the City and leased to CTV, is the entire agreement of the parties and supersedes all prior negotiations and agreements whether written or oral. This Agreement may be amended only by written agreement and no purported oral amendment to this Agreement shall be valid. Amendments to the Agreement of non-cost items may be approved by the City Manager.

**SECTION 29---ADDITIONAL PROVISIONS.**

The City acknowledges that CTV has the right to request that the City Council approve a Franchise Fee increase of 0.75% in calendar year 2016 and 2017 for a total Franchise Fee of 5.0%.


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

**CITY OF KEENE,**  
a municipal corporation

By:   
John A. MacLean, City Manager  
Duly authorized

Date: 12/1/14

**CHESHIRE TV,**  
a nonprofit corporation

By:   
Thomas Cook, President  
Duly authorized

Date: 11/12/14