

AGREEMENT  
Between the  
CITY OF CONCORD  
And the,  
CONCORD SCHOOL DISTRICT  
And  
CONCORD COMMUNITY TV

THIS AGREEMENT entered into this — day of \_\_\_\_\_, 201\_ by and between the City of Concord, a New Hampshire municipal corporation, hereinafter called the “City”, the Concord School District (legal name and standing), hereinafter called the “School District”, and Concord Community TV (d.b.a. ConcordTV), a New Hampshire voluntary non-profit corporation, hereinafter called “ConcordTV”:

**ARTICLE I. PARTIES**

- a. **The City of Concord, New Hampshire**, a municipal corporation, with a principal place of business at 41 Green Street, Concord, New Hampshire (the “City”).
- b. **Concord School District**, a New Hampshire public school district, with a principal place of business at 38 Liberty Street, Concord, New Hampshire, (the “School District”).
- c. **Concord Community TV (d.b.a. ConcordTV)**, with a principal place of business at 170 Warren Street, Concord, New Hampshire 03301.

**ARTICLE II. BACKGROUND AND OBJECTIVE**

WHEREAS, the Parties desire to provide equal and open access to information vital to a democratic society; and

WHEREAS, a community has a fundamental responsibility to keep its citizens informed on public, educational, and governmental matters of local interest; and

WHEREAS, a community has the fundamental responsibility to provide lifelong learning opportunities for its citizens; and

WHEREAS, in accordance with the Cable Television Renewal Franchise Agreement between the City and Comcast of Maine/New Hampshire, Inc. (“Comcast”), Comcast is required to make available to Concord three (3) or four (4) Downstream Channels for PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS (PEG) use:

- Public Access Programming
- Educational Access Programming
- Governmental Access Programming
- A fourth Channel as may be needed

WHEREAS, the City has selected ConcordTV to administer the PEG Channels in accordance with the terms of this Agreement.; and

WHEREAS, the City, School District and ConcordTV previously entered into an agreement to provide aforementioned services to the community, and desires to continue the relationship; and

WHEREAS, ConcordTV needs to secure and use spaces for its office and studio; and

WHEREAS, the School District is willing to provide the desired space in exchange for studio and equipment access for educational purposes;

NOW THEREFORE, the Parties mutually agree as follows:

### **ARTICLE III. RULES AND RESPONSIBILITIES OF THE PARTIES**

#### **A. Parties' Responsibilities**

1. The School District will be responsible for the content of the programming on the Education channel.
2. The City will be responsible for the content of the programming on the Government Channel.
3. ConcordTV will be responsible for the playback of the content of the programming on the Public channel.
4. The City Manager, or his/her designee, shall approve all programming on the Government Channel.
5. The Superintendent of Schools, or his/her designee shall approve all programming on the Education channel.

#### **B. ConcordTV Agrees To:**

1. Provide residents and organizations of Concord, New Hampshire, with the opportunity to use these facilities and access to cable television for the purpose of producing and cable casting public interest, cultural, education and government programs over the local cable television channels.
2. Maintain the necessary administrative procedures and resources to carry out the mission of the organization, including but not limited to:
  - a. Enforce and amend, as necessary, operating policies, procedures and practices.
  - b. Provide for the responsible management of all production equipment.

- c. Accept operating and capital funds from the City from the franchise fee and other applicable sources.
- d. Provide the City an annual report of ConcordTV activities within six months of the end of the fiscal year, including at minimum audited GAAP financial statements prepared in accordance with generally accepted accounting principles.
- e. Provide the City with a draft budget by May 15th of each year, showing the next year's proposed revenues and expenditures, showing current year budget, estimated current year revenues and expenditures and two years previous actual expenditures with appropriate explanatory details. Explanatory details shall include the derivation of major revenues and expenditures, and explanations of significant year-to-year changes in numbers. Said budget is to be presented to the public at an open meeting and cablecast on ConcordTV, a notice of which shall be posted on the ConcordTV web site, City Hall and in a newspaper of general circulation in the greater Concord area at least ten (10) days prior to the meeting.
- f. Maintain a prospective ten year capital plan with sources and uses of funds by year and project with appropriate explanatory details.
- g. Provide the City with a copy of its annual filing to the IRS.
- h. Maintain a current staff listing of position titles and a table of organization. Names shall not be included.
- i. Conduct ConcordTV Board meetings that are open to the public, in accordance with New Hampshire law..
- j. Provide the City Clerk with copies of all public ConcordTV Board meeting minutes and store its minutes in accordance with New Hampshire law.
- k. Employ and evaluate an executive director and provide the necessary and proper oversight of all ConcordTV functions.
- l. Assume responsibilities for the playback of all programming on the PEG Channels.
- m. Post regular meeting schedule and minutes on the website within 7 business days of the meeting.
- n. Provide prudent security, including an alarm system at its rent-free space at Concord High School and any other leased space where it conducts its programming. ConcordTV is not required to provide security at the Concord City Council Chamber or the School District's Board location, beyond locking its equipment in the on-site cabinet.

3. Provide the following services:
  - a. Production facilities for public use consistent with established ConcordTV production policies and procedures.
  - b. Maintain an inventory of current and upgraded equipment.
  - c. Provide appropriate studio availability, and equipment for offsite use, to community members, organizations and groups, giving reasonable advance notice.
  - d. Cooperate with School District and City building security, and log entrance and exit of authorized personnel and public.
  - e. Require all producers, guests, crewmembers and other members of the public using the ConcordTV facility to abide by City and School District policies.
  - f. Maintain a working relationship with all cable and video providers, and monitor broadcast integrity and technology.
  - g. Provide live cablecast and repeat cablecast of all regular and specially designated City Council meetings, Finance Committee meetings, Planning Board meetings, and Zoning Board of Adjustment meetings, and other meetings that may be deemed necessary by the City.
  - h. Maintain written logs and records of locally produced productions and cablecasts in electronic format. In addition, maintain a listing, in an electronic format acceptable to the City, of all the producers of the programs produced by ConcordTV. For the purposes of this Agreement, the word “producer” shall be defined as follows: “a person or organization in charge of the coordination of all activities in connection with the production of the video or cablecast”.
  - i. Provide for the live cablecast and repeat cablecast of all regular School Board and School Committee Meetings. ConcordTV will provide the initial cablecast connection and audio/video equipment. Initial operating instruction of the audio/video equipment will be the sole responsibility of the installing vendor. The School District will assume ownership of this equipment and be responsible for its maintenance and repair. The School District will also provide the personnel necessary to operate this equipment at each meeting.
  - j. Maintain a program schedule listing the dates and times of all cablecast programs. A copy of the list shall be submitted to the Office of the City Clerk on a monthly basis. The list shall include the following information: Program Title, Producer Name, and Date and Time of original cablecast.
  - k. Participate in a joint committee with School District personnel to regularly identify new, original programming for the Education channel. The joint committee shall meet at least twice a year.

4. Provide information for the following performance measures:
  - a. Raise additional ConcordTV operating and capital funds through development strategies and strive to increase private donations, grants, and in-kind services on an annual basis.
  - b. Provide training workshops and seminars for individuals and organizations to learn the basics of how to create and produce television programs on a minimum of a quarterly basis.
  - c. Provide assistance to the City and School District with technical support on video and audio matters.
  - d. Support communications and marketing initiatives of the City as follows: (Such assistance should be consistent with, but not exceed ability of ConcordTV resources).
    1. Updating the public on the current and future major projects being undertaken by the City – e.g. *Main Street Minute*.
    2. Promoting upcoming classes/events – e.g. *Parks and Rec in 10*, *We Are Serious About Fun*, Bulletin Board support.
    3. Training City staff with camera use, editing, and production.
    4. Providing recommendations for the purchase of future upgrades to video and audio technology in City facilities.
    5. Supporting the City's economic development efforts in creating promotional videos.
  - e. Support communications and marketing initiatives of the School District as follows: (Such assistance should be consistent with, but not exceed ability of ConcordTV resources).
    1. Updating the public on the current and future major projects being undertaken by the School District.
    2. Promoting upcoming classes/events – e.g. Concord Regional Technology Class Previews, Bulletin Board support.
    3. Training School District faculty and staff with camera use, editing, and production.
    4. Training students with camera use, editing, and production.
    5. Assisting with *CHS Live* and the Concord High School Film Society.
    6. Providing recommendations for the purchase of future upgrades to video and audio technology in School District facilities.

**C. The City Agrees To:**

1. Provide meeting space for ConcordTV functions as requested, subject to the availability of space.
2. Subject to City Council annual appropriation, provide operating funds from the franchise fees. The amount shall be equivalent to 33.5% of the gross franchise fee revenues subject to the inclusion in the City's adoption of the annual operating budget of the City.
3. Subject to the City Council's annual appropriation, the release of appropriated operating funds shall be as follows: 25% on August 15<sup>th</sup>; 25% on November 15<sup>th</sup>; 25% on February 15<sup>th</sup>; and 25% on May 15<sup>th</sup>. The City will reconcile the true 33.5% of gross cable revenues (based on its April cable revenues report) and pass on to ConcordTV any additional monies that may result from this reconciliation.
4. Communicate with the cable and video provider(s), as reasonable necessary to uphold its responsibilities in maintaining the quality and integrity of the cablecast link.

**D. The School District Agrees To Provide ConcordTV:**

1. Rent-free space for the studio and office facility use, located at the Concord High School or other Concord School buildings mutually agreed to between the parties. The School District will allow ConcordTV to utilize Room W2154 as studio space and Rooms W2026 and W2027 for office and training space at the High School and will allow ConcordTV to make any renovations necessary for its operation, at its own expense with prior approval by the School District, and in accordance with IBC Building Codes and Life Safety Fire Regulations (NFPA101).
2. Utilities: heat, electricity, and air conditioning.
3. Up to two .org email accounts for the use of purchasing when authorized by CSD.
4. Cooperation in the purchase of equipment through the School District Finance Department.
5. Physical access to the studio area during school hours, and during ConcordTV's regular hours of operation, which may include weekends, school holidays, vacations, or school closures for any other reason. However, should the District choose to close the building or the area where ConcordTV offices and studio exist, for emergency safety reasons, ConcordTV will not have access to the facility.
6. Facility maintenance and custodial services, including heating and cooling system maintenance.
7. Staffing for any Concord High School TV Production Courses offered to students as part of the school curriculum.

8. Meeting or function space at no charge.
9. Parking privileges in the High School Parking Area for all ConcordTV staff, board members, producers and volunteers as long as the spaces are available.
10. Copier and reproduction privileges at the High School up to one thousand (1,000) copies per month for authorized ConcordTV personnel only.
11. The School District will allow ConcordTV to place signage consistent in design with the High School's current signage, at a reasonable, agreed upon location on High School property, so as to be visible by the traveling public on Warren Street.

#### **ARTICLE IV. GENERAL CONDITIONS**

**1. Term:**

The term of this Agreement shall start on \_\_\_\_\_, 2016 and expire \_\_\_\_\_, 2021.

**2. Renewal:**

This Agreement may be renewed by mutual agreement of the Parties. The Agreement may be renewed for a period of five years. Renewal negotiations shall commence by January 1, 2021. The successful completion of contract performance measures shall be an important part of contract renewal consideration.

**3. Severability:**

If any term or provision of this Agreement shall to any extent be determined to be void, invalid, or unenforceable, or should violate any law of the United States, this Agreement shall be considered divisible as to such provisions, both the enforceability or validity of the remainder of the Agreement shall not be affected.

**4. Entire Agreement:**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. The Parties agree that any and all prior and contemporaneous communications, either written or oral, and all previous and contemporaneous agreements, if any, between the Parties with respect to the subject matter hereof are automatically canceled by the signing of this Agreement. The Parties acknowledge and agree that they are not relying upon any statement, representation, or communication of any kind not contained in this Agreement. No change, amendment, or modification of this Agreement shall be effective unless made in writing and signed by each Party.

**5. Assignability:**

This Agreement cannot be directly or indirectly assigned, sold, transferred or encumbered by the ConcordTV in whole or in part, without authorization in writing from the City and the School District.

**6. ConcordTV's Indemnification of the City and the School District:**

ConcordTV agrees to indemnify and hold the City and the School District harmless from any and all claims, liability, losses, or damages of any kind whatsoever, whether direct or indirect, or consequential, including, without limit, attorney's fees or other legal expenses of any kind whatsoever, arising out of the following; (i) any negligent acts or omissions by ConcordTV or the ConcordTV's employees, volunteers or officials in connection with this Agreement; (ii) ConcordTV's breach of any terms or conditions of the Agreement.

**7. Insurance:**

It is agreed that during the term of this Agreement, ConcordTV, at its sole cost and expense, shall carry and maintain the following types of insurance which shall name the City and the School District as "Additionally Insured". The Insurance shall be as follows:

**Certificate of Liability Insurance:**

- **General Liability Insurance in the Aggregate of Two (2) Million Dollars.**
- **Each Occurrence of Injury One (1) Million Dollars.**
- **Medical Expense (any one person) Five (5) Thousand Dollars.**

**8. Termination of Agreement:**

The agreement may be terminated at any time by mutual consent of all parties. In the event of such termination, all equipment shall become property of the City; other than properties that were contributed by the School District which shall revert to the School District.

The City shall give written notice of non-performance or breach of contract to ConcordTV with request to cure within 45 days or sooner. In the event breach or non-performance is not cured within that time period, then the City reserves the right to terminate the Agreement for non-performance, and must supply a forty-five (45) day written notice to all parties.

**9. Notice:**

Any notice or other communication required by this Agreement will be deemed to have been duly given, if deposited in the U.S. Mail, postage prepaid, and addressed to a Party at the address set forth in the identification of the Parties in this Agreement. Notice to the



City, shall be directed to the City Manager, Notice to the School District shall be to the Superintendent and Notice to ConcordTV shall be to its Executive Director.

**ARTICLE V. EXECUTION OF AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the respective officers there unto duly authorized as of this date first written above.

CITY OF CONCORD

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

CONCORD SCHOOL DISTRICT

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

CONCORD COMMUNITY TV

\_\_\_\_\_  
Witness

By: \_\_\_\_\_