

REVISED AGENDA
SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
SPECIAL MEETING OF THE BOARD OF TRUSTEES
September 20, 2017, 5:00 p.m.
District Office Board Room, 3401 CSM Drive, San Mateo, CA 94402
Other Locations: Av. Atlântica, 1500, Rio de Janeiro - RJ, 22021-000, Brazil
and 150 Post Street, Suite 442, San Francisco, CA 94108

NOTICE ABOUT PUBLIC PARTICIPATION AT BOARD MEETINGS

The Board welcomes public discussion.

- *The public's comments on agenda items will be taken at the time the item is discussed by the Board.*
- *To comment on items not on the agenda, a member of the public may address the Board under "Statements from the Public on Non-Agenda Items;" at this time, there can be discussion on any matter related to the Colleges or the District, except for personnel items and potential or existing litigation. No more than 20 minutes will be allocated for this section of the agenda. No Board response will be made nor is Board action permitted on matters presented under this agenda topic.*
- *If a member of the public wishes to present a proposal to be included on a future Board agenda, arrangements should be made through the Chancellor's Office at least seven days in advance of the meeting. These matters will be heard under the agenda item "Presentations to the Board by Persons or Delegations." A member of the public may also write to the Board regarding District business; letters can be addressed to 3401 CSM Drive, San Mateo, CA 94402.*
- *Persons with disabilities who require auxiliary aids or services will be provided such aids with a three day notice. For further information, contact the Executive Assistant to the Board at (650) 358-6753.*
- *Regular Board meetings are tape recorded; tapes are kept for one month.*

Government Code §54957.5 states that public records relating to any item on the open session agenda for a regular board meeting should be made available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to the members of the Board. The Board has designated the Chancellor's Office at 3401 CSM Drive for the purpose of making those public records available for later inspection; members of the public should call 650-358-6753 to arrange a time for such inspection.

5:00 p.m. Call to Order/Roll Call

Pledge of Allegiance

CONSIDERATION OF ITEM TABLED AT THE MEETING OF SEPTEMBER 13, 2017

17-9-104B Ratification of the Purchase Agreement for the Sale of KCSM-TV and Ancillary Agreements

ADJOURNMENT

BOARD REPORT 17-9-104B

TO: Members of the Board of Trustees

FROM: Ron Galatolo, Chancellor

PREPARED BY: Eugene Whitlock, Vice Chancellor, Human Resources and General Counsel,
(650) 358-6883

**RATIFICATION OF THE PURCHASE AGREEMENT FOR THE SALE OF KCSM-TV AND
ANCILLARY AGREEMENTS**

At a special meeting of the Board of Trustees on September 6, 2017, the Board voted unanimously to authorize the Chancellor to enter into an agreement consistent with the material terms of the agreement and to authorize the Board President to enter into an escrow agreement and any other ancillary agreements that are necessary to effectuate the sale of KCSM.

At that meeting, Eugene Whitlock, Vice Chancellor of Human Resources/General Counsel, stated the material terms that are under consideration, as follows:

With regard to station assets, assets that would be transferred include:

- FCC licenses
- Transmitter site equipment and master control equipment, to be sold “as is”
- Lease for Sutro Tower which would be fully transferred to the buyer
- All files and records of the Station required to be kept by the FCC, and all repacking records

The purchase price would be \$12 million cash at closing. Of that \$12 million, \$960,000 would be paid as a deposit at the time of the execution of the agreement, to be deposited with an agreed escrow agent subject to a separate escrow agreement.

Additional consideration, to be provided by the buyer, includes:

- Television and radio underwriting announcements for five years after closing
- Three student internships per semester, for three years after closing
- Carriage of KCSM(FM), for five years after closing
- Carriage of 30 minutes of District-produced programming once each month, for five years after closing

Closing is scheduled to take place within 10 days after FCC consent is final.

With regard to repacking, the District is obliged to continue repacking efforts as required by the FCC. At closing, the buyer promises to reimburse any unreimbursed costs the District has incurred in connection with repacking.

There are terms and conditions around termination. For example, if the deal does not close within 12 months from the date of the agreement, either party may terminate the agreement.

Upon approval by the Board, Vice Chancellor Whitlock said the District would work with KRCB to finalize the agreement and then bring it back to the Board for ratification. The agreement has now been finalized and is being presented to the Board for ratification.

RECOMMENDATION

It is recommended that the Board ratify the sale of KCSM-TV to KRCB-TV. Copies of the Asset Purchase Agreement and Escrow Instruction and Agreement are attached to this report.

ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this “Agreement”), effective as of September ___, 2017 (the “Effective Date”), is entered into between **SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**, a California Community College District (“Seller”), and **RURAL CALIFORNIA BROADCASTING CORPORATION**, a California non-profit and nonstock corporation (“Buyer”).

Recitals

A. Seller is the licensee of and operates noncommercial educational television Station KCSM-TV, San Mateo, California (the “Station”), pursuant to a license issued by the Federal Communications Commission (the “FCC”).

B. Seller desires to sell and assign to Buyer, and Buyer wishes to buy and take assignment of, certain assets of Seller and the FCC Licenses as set forth herein on the terms and subject to the conditions hereinafter set forth, subject to the prior approval of the FCC.

In consideration of the foregoing and the mutual promises contained herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

Agreement

ARTICLE 1: PURCHASE OF ASSETS

1.1 Station Assets. On the terms and subject to the conditions hereof, at Closing (as defined in Section 1.8), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title and interest of Seller in and to the assets owned and held by Seller and described in this Section 1.1 (collectively, the “Station Assets”). The Station Assets consist of:

(a) all transferable FCC licenses, permits and other authorizations with respect to the Station (the “FCC Licenses”), which are listed on *Schedule 1.1(a)*, including any renewals or modifications thereof between the date hereof and Closing;

(b) the equipment, transmitters, and other tangible personal property that are used or held for use in the operation of the Station and listed on *Schedule 1.1(b)*, except for (i) any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business in accordance with Section 4.1(c) hereof and (ii) the Rejected Personal Property (as defined in Section 2.6) (the “Tangible Personal Property”);

(c) the contracts, agreements and leases that are used in the operation of the Station and listed on *Schedule 1.1(c)*, and all other such contracts, agreements and leases entered into between the date hereof and Closing subject to the limitations set forth in Section 4.1(f) (the “Station Contracts”); and

(d) all files, documents and records exclusively relating to the Station Assets or required by the FCC to be kept by the Station, including the Station’s local public

files, engineering data and logs, Form 399 filed with the FCC specifying estimated expenses related to Repacking (as defined in Section 1.6) and all Attachments thereto, together with all quotations, studies and correspondence relating to the KCSM repack plan, but excluding records included in or related to Excluded Assets (as defined in Section 1.2).

The Station Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances (“Liens”), except for Assumed Obligations (defined in Section 1.3), liens that will be released at or prior to Closing, liens listed on *Schedule 1.1(c)* hereto, and such other liens, claims, restrictions, and other exceptions that do not in any material respect detract from the value of the property subject thereto or impair the use thereof in the ordinary course of the business of the Station (collectively, “Permitted Liens”).

1.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement and for the purposes of clarity, the Parties agree that the Station Assets shall not include the following assets or any rights, title and interest therein (the “Excluded Assets”):

(a) all cash and cash equivalents, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts and all such similar accounts or investments;

(b) all tangible and intangible personal property retired or disposed of between the date of this Agreement and Closing in accordance with Article 4;

(c) all Seller business records, including, without limitation, financial records, charter documents, and books and records relating to the organization and existence of Seller, duplicate copies of the records of the Station, and all records not relating to the operation of the Station;

(d) all contracts of insurance, all coverages and proceeds thereunder and all rights in connection therewith, including without limitation rights arising from any refunds due with respect to insurance premium payments to the extent related to such insurance policies;

(e) all pension, profit sharing plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any;

(f) all receivables (if any) and any other rights to receipt of cash that accrue or have accrued prior to the Effective Time (as defined in Section 1.6) or otherwise arising during or attributable to any period prior to the Effective Time (the “Receivables”);

(g) all rights and claims, whether mature, contingent or otherwise, against third parties with respect to the Station and the Station Assets, to the extent arising during or attributable to any period prior to the Effective Time (as defined in Section 1.6);

(h) all deposits and prepaid expenses (and rights arising therefrom or related thereto), except to the extent Seller receives a credit therefor under Section 1.6 (Prorations and Adjustments);

(i) all rights and claims, whether mature, contingent or otherwise, primarily related to the Retained Obligations (as defined in Section 1.3);

(j) all assets used or held for use in the operation of any other radio or television station (other than the Station) owned or operated by Seller or an affiliate of Seller, or shared between any such station and the Station, except for the items specifically set forth on *Schedule 1.1(b)*;

(k) all intellectual property associated with the Station, including trademarks, trade names, service marks, internet domain names and websites, copyrights, slogans, or logos, including without limitation all intellectual property using or related to the call signs “KCSM” or “KCSM-TV”, or any variation thereof, together with Seller’s programming information and studies, marketing and demographic data, viewership studies and correspondence; and

(l) the items listed in *Schedule 1.2(l)* hereto.

1.3 Assumption of Obligations. On the Closing Date (as defined in Section 1.8), Buyer shall assume the (i) obligations of Seller arising during, or attributable to, any period of time on or after the Closing Date under the Station Contracts, (ii) all obligations and liabilities arising out of Buyer’s ownership of the Station Assets, and (iii) any other liabilities of Seller to the extent Buyer receives a credit therefor under Section 1.6 (Prorations and Adjustments) (collectively, the “Assumed Obligations”). Except for the Assumed Obligations, Buyer does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities or obligations of Seller (the “Retained Obligations”).

1.4 Purchase Price. In consideration for the sale of the Station Assets to Buyer, at Closing Buyer shall pay Seller, by wire transfer of immediately available funds, the sum of Twelve Million Dollars (\$12,000,000.00) (including the Deposit (as defined in Section 1.5), subject to any adjustment pursuant to Section 1.6 (Prorations and Adjustments) (the “Purchase Price”).

1.5 Deposit. On the date of this Agreement, Buyer shall make a cash deposit in immediately available funds in an amount equal to Nine Hundred and Sixty Thousand Dollars (\$960,000.00) (the “Deposit”) with McGovern Escrow Services, Inc. (the “Escrow Agent”) pursuant to the Escrow Agreement (the “Escrow Agreement”) of even date herewith among Buyer, Seller and the Escrow Agent. At Closing, the Deposit shall be disbursed to Seller and applied to the Purchase Price and any interest accrued thereon shall be disbursed to Buyer. If this Agreement is terminated by Seller pursuant to Section 10.1(c), the Deposit and any interest accrued thereon shall be disbursed to Seller pursuant to Section 10.4 (Liquidated Damages). If this Agreement is terminated pursuant any other provision, the Deposit and any interest accrued thereon shall be disbursed to Buyer. The parties shall each cooperate to instruct the Escrow Agent to disburse the Deposit and all interest thereon to the party entitled thereto and shall not, by any act or omission, delay or prevent any such disbursement unless contested by a party in good faith in writing within five (5) business days of a disbursement request, in which event the Deposit shall remain with the Escrow Agent until the parties’ dispute is resolved. Any failure by Buyer to make the Deposit on the date hereof constitutes a material default as to which the Cure

Period under Section 10.2 (Cure Period) shall not apply and shall entitle Seller to immediately terminate this Agreement.

1.6 Prorations and Adjustments. All prepaid and deferred income and expenses relating to the Station Assets and arising from the operation of the Station shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles (“GAAP”) as of 12:01 a.m. on the day of Closing (the “Effective Time”). Such prorations shall include without limitation all taxes (except transfer taxes as provided by Section 11.1 (Expenses), music and other license fees, FCC regulatory fees, utility expenses, rent and other amounts under Station Contracts, and similar prepaid and deferred items. Seller shall receive a credit for all of the Station’s deposits and prepaid expenses to the extent they inure to Buyer’s benefit. Except as set forth in *Schedule 1.6*, Buyer will reimburse Seller for any expenses related to the Station’s involuntary channel reassignment in connection with reorganization of the television broadcast band pursuant to Section 6403(b) of the Middle Class Tax Relief and Job Creation Act of 2012 (“Repacking”) incurred by Seller but not reimbursed to Seller from the United States Treasury’s Repacking reimbursement fund as of the Effective Time, subject to Seller’s remittance to Buyer of any subsequent reimbursements received by Seller. To the extent possible, initial prorations and adjustments shall be made on the Closing Date, with final prorations and adjustments made no later than ninety (90) calendar days after Closing.

1.7 Additional Consideration. In further consideration for the sale of the Station Assets to Buyer, in addition to the Purchase Price, Buyer shall provide to Seller the additional consideration as set forth in *Schedule 1.7*.

1.8 Closing. The consummation of the sale and purchase of the Station Assets provided for in this Agreement (the “Closing”) shall take place on or before the tenth (10th) business day after the date on which the FCC Consent (as defined in Section 1.9) becomes a Final Order (as defined in Section 7.3) or on such other day after such FCC Consent as Buyer and Seller may mutually agree, subject to the satisfaction or waiver of the conditions set forth in Article 6 and Article 7. The date on which the Closing is to occur is referred to herein as the “Closing Date.”

1.9 FCC Consent. Within ten (10) business days after the date of this Agreement, Buyer and Seller shall file an application with the FCC (the “FCC Application”) requesting FCC consent to the assignment of the FCC Licenses to Buyer. FCC consent to the FCC Application without any material adverse conditions other than those of general applicability is referred to herein as the “FCC Consent”. Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Consent as soon as possible. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement or the transactions contemplated hereby. Buyer and Seller shall furnish each other with such information and assistance as the other may reasonably request in connection with their preparation of any governmental filing hereunder. Except as otherwise provided herein, each party will be solely responsible for the expenses incurred by it in the preparation, filing, and prosecution of its respective portion of the FCC Application. Neither Buyer nor Seller shall take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of materially delaying the issuance of the FCC Consent.

1.10 Repacking. Buyer acknowledges that it has reviewed Seller's plans, including equipment specifications, related to Repacking (as defined in Section 1.6). Seller agrees to give Buyer advance notice (which may be by email) of any material changes to the equipment specifications and vendors and to consider Buyer's recommendations regarding Repacking equipment specifications. For clarity, Seller has no obligation to Buyer with respect to Repacking, including without limitation any obligation to accept Buyer's recommendations regarding equipment specifications, except as expressly set forth in this Agreement.

ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES

Seller makes the following representations and warranties to Buyer:

2.1 Organization. Seller is a California Community College District duly organized, validly existing and in good standing under the laws of the State of California. Seller has all requisite power and authority (i) to own, lease and use its assets as presently owned, leased and used, (ii) for the conduct the business and operations of Seller as presently conducted, (iii) to execute and deliver this Agreement, and (iv) to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Seller hereunder.

2.2 Authorization. The execution, delivery and performance of this Agreement by Seller have been duly authorized and approved by all necessary action of Seller and do not require any further authorization or consent of Seller. This Agreement is a legal, valid and binding agreement of Seller enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

2.3 No Conflicts. Except for the FCC Consent and consents to assign certain of the Station Contracts, and except as otherwise as set forth on *Schedule 2.10*, the execution, delivery and performance by Seller of this Agreement and the consummation by Seller of the transactions contemplated hereby do not conflict with any organizational documents of Seller or any other material contract to which Seller is bound, or any law, judgment, order, or decree to which Seller is subject, or require the consent or approval of, or a filing by Seller with, any governmental or regulatory authority.

2.4 FCC Licenses. Seller is the holder of the FCC Licenses described on *Schedule 1.1(a)*, which are all of the governmental licenses, permits and authorizations required for the present operation of the Station. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. Except with respect to Repacking as set forth in *Schedule 1.1(a)*, there is no pending, or, to Seller's knowledge threatened, action by or before the FCC to revoke, suspend, cancel, rescind or materially adversely modify any of the FCC Licenses (other than proceedings to amend FCC rules and regulations of general applicability). There is not issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or order of forfeiture against the Station or against Seller with respect to the Station that could result in any such action. The Station is operating in compliance in all material respects with the FCC Licenses, the Communications Act of 1934, as amended (the "Communications Act"), and the

rules, regulations and policies of the FCC, other than such non-compliance as would not have a material adverse effect on Buyer, the Station Assets or the transactions contemplated by this Agreement. All material reports and filings required to be filed with the FCC by Seller with respect to the Station have been timely filed and all such reports and filings are accurate and complete, other than as would not have a material adverse effect on Buyer, the Station Assets or the transactions contemplated by this Agreement.

2.5 Taxes. Seller is not subject to taxation other than with respect to employment and sales and use taxes. It has timely filed all required tax returns in the manner prescribed by law, and all such tax returns are true, correct and complete in all material respects. Seller has properly accrued or paid to the extent such taxes have become due all taxes due from Seller. Seller has properly withheld all taxes as required. There are no liens for taxes upon the Station Assets. There is no dispute or claim concerning any tax liability relating to Seller either claimed or raised by any taxing authority. There are no pending tax audits or proposed tax audits of which Seller has notice.

2.6 Personal Property. *Schedule 1.1(b)* contains a list of all material items of Tangible Personal Property included in the Station Assets. Except as described in *Schedule 1.1(b)*, Seller has good title to or a valid leasehold or license interest in such Tangible Personal Property free and clear of Liens other than Permitted Liens. Subject the foregoing, each item of Tangible Personal Property is sold “as is” as of the Effective Date. Buyer shall give notice to Seller within forty (40) days after the date on which the FCC Application is filed of any items listed on *Schedule 1.1(b)* (other than the Sutro Equipment) it does not wish to acquire at closing, and *Schedule 1.1(b)* shall be deemed amended to exclude such items (such excluded items, the “Rejected Personal Property”), and Buyer shall thereafter have no rights with respect to the Rejected Personal Property.

2.7 Contracts. *Schedule 1.1(c)* contains a list of all contracts that are included in the Station Contracts. The Station Contracts requiring the consent of a third party to assignment are identified on *Schedule 1.1(c)*. Each of the Station Contracts is in effect and is binding upon Seller and the other parties thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors’ rights generally). Seller has performed its obligations under each of the Station Contracts in all material respects, and is not in material default thereunder, and no other party to any of the Station Contracts is in default thereunder in any material respect.

2.8 Insurance. All of the Tangible Personal Property is (a) self-insured against loss or damage up to a limit of \$150,000 in accordance with California law and Seller’s established practice, and such insurance will be maintained in effect by Seller until the Closing, and (b) insured with a commercial insurance company for loss or damage in excess of the self-insurance amount up to \$5,000,000.

2.9 Compliance with Law. Other than such non-compliance as would not have a material adverse effect on a reasonable buyer, the Station Assets or the transactions contemplated by this Agreement, Seller has complied with all laws, rules and regulations, including without limitation all FCC rules and regulations applicable to the operation of the Station, and all decrees and orders of any court or governmental authority which are applicable to the operation of the Station. To Seller’s knowledge, there are no claims or investigations by

the government pending or threatened against Seller in respect of the Station except those affecting the industry generally.

2.10 Litigation. Except as set forth on *Schedule 2.10*, there is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect to the Station Assets that will or threatens to subject Buyer to liability or which will or threatens to affect Seller's ability to perform its obligations under this Agreement. Seller is not operating under or subject to any order, writ, injunction or decree relating to the Station Assets of any court or governmental authority which would have a material adverse effect on the condition of the Station Assets or on the ability of Seller to enter into this Agreement or consummate the transactions contemplated hereby, other than those of general applicability (e.g., Repacking).

2.11 Disclaimer of Other Express and Implied Representations and Warranties. Except for the representations and warranties expressly made by Seller in this Article 2, Seller makes no other representations or warranties, express or implied, whether statutory or by common law regarding Seller, the business and operation of the Station, or the Station Assets.

2.12 No Other Representations or Warranties. Seller agrees that neither Buyer nor any of its representatives has made and shall not be deemed to have made, nor has Seller or any of its representatives relied on, any representation, warranty, covenant or agreement, express or implied, or any statement or information, with respect to Buyer, its business, or its proposed acquisition and operation of the Station, other than those representations, warranties, covenants and agreements explicitly set forth in Article 3. Seller further acknowledges and agrees that (a) it has made its own investigation into, and based thereon has formed an independent judgment concerning the Buyer, its business and the proposed acquisition and operation of the Station, and (b) Buyer has made available such information about Buyer as Seller has reasonably requested.

ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES

Buyer hereby makes the following representations and warranties to Seller:

3.1 Organization. Buyer is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and is, or will be at Closing, qualified to do business in the state of California. Buyer has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto and to consummate the transactions contemplated hereby.

3.2 Authorization. The execution, delivery and performance of this Agreement by Buyer has been duly authorized and approved by all necessary action of Buyer and do not require any further authorization or consent of Buyer. This Agreement is a legal, valid and binding agreement of Buyer enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.3 No Conflicts. Except for the FCC Consent, the execution, delivery and performance by Buyer of this Agreement and the consummation by Buyer of any of the transactions contemplated hereby do not conflict with any organizational documents of Buyer, any contract or agreement to which Buyer is a party or is by which it is bound, or any law, judgment, order or decree to which Buyer is subject, or require the consent or approval of, or a filing by Buyer with, any governmental or regulatory authority or any third party.

3.4 Litigation. There is no action, suit or proceeding pending or, to Buyer's knowledge, threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect the ability of Buyer to perform its obligations hereunder.

3.5 Qualification. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act and the rules, regulations and policies of the FCC, including, but not limited to, eligibility to hold a noncommercial educational license under Section 73.621 of those rules. There are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station, or that that would reasonably be expected to delay the FCC's processing of the FCC Application because of Buyer's qualifications. No divestiture, waiver of or exemption from any existing FCC rule or policy on the part of Buyer is necessary for the FCC Consent to be obtained.

3.6 Financing. Buyer has on hand or from committed funds financial resources sufficient to consummate the transactions contemplated by this Agreement and to operate the Station after the Closing Date. Buyer's obligations hereunder are not subject to or conditioned upon it obtaining financing or a financing commitment of any nature.

3.7 No Other Representations or Warranties. Buyer agrees that neither Seller nor any of its representatives has made and shall not be deemed to have made, nor has Buyer or any of its representatives relied on, any representation, warranty, covenant or agreement, express or implied, or any statement or information, with respect to Seller, its business, the Station, or the Station Assets, other than those representations, warranties, covenants and agreements explicitly set forth in Article 2. Buyer further acknowledges and agrees that (a) it has made its own investigation into, and based thereon has formed an independent judgment concerning the Station and the Station Assets, and (b) Seller has made available such information about the Station and the Station Assets as Buyer has reasonably requested.

ARTICLE 4: SELLER AND BUYER COVENANTS

4.1 Seller's Covenants. Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, delayed or conditioned, Seller shall:

- (a) use commercially reasonable efforts to operate the Station in the ordinary course of business (for avoidance of doubt, any expense reductions made consistent with Seller's past practices shall be deemed in the ordinary course of business) and in all material respects in accordance with FCC rules and regulations and with all other applicable laws, regulations, rules and orders;

(b) except with respect to Repacking as set forth in *Schedule 1.1(a)* and Section 4.1(h), not modify, and in all material respects maintain in full force and effect, the FCC Licenses;

(c) except in the ordinary course of business, not sell, lease or dispose of or agree to sell, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility, or create, assume or permit to exist any Liens upon the Station Assets, except for Permitted Liens, and not dissolve, liquidate, merge or consolidate with any other entity;

(d) use commercially reasonable efforts to maintain the Tangible Personal Property in the ordinary course of business;

(e) upon reasonable notice, give Buyer and its representatives reasonable access during normal business hours to the Station Assets, and furnish Buyer with information relating to the Station Assets that Buyer may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Station;

(f) not enter into new Station Contracts that will be binding upon Buyer after Closing or amend or terminate any existing Station Contracts, except for Station Contracts made, amended or terminated with Buyer's prior written consent;

(g) cooperate with Buyer in timely filing such applications and other material as may be required to obtain FCC Consent to the assignment of the FCC Licenses to Buyer, including, but not limited to, providing the FCC with such information as it may reasonably request, assisting Buyer in providing such information, where appropriate, and generally using commercially reasonable efforts to obtain the prompt and timely FCC Consent; and

(h) take such commercially reasonable steps as are required by the Mt. Sutro transmitter site landlord and, in consultation with Buyer as provided by Section 1.10 (Repacking), such other steps as Seller reasonably deems necessary and appropriate, in each case to enable the Station to meet the Repacking requirements and schedule established by the FCC.

4.2 Buyer's Covenants. Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Seller, which shall not be unreasonably withheld, delayed or conditioned, Buyer shall:

(a) take no action that would reasonably be expected to impair its qualifications to be the licensee of the Station, materially delay obtaining the FCC Consent, result in its disqualification under the rules of the FCC to be the licensee of the Station, or that would require it to obtain a waiver of the FCC Rules in order to obtain the FCC Consent;

(b) cooperate with Seller in timely filing such applications and other material as may be required to obtain FCC Consent to the assignment of the FCC Licenses to Buyer, including, but not limited to, providing the FCC with such information as it may reasonably request, assisting Seller in providing such information, where appropriate, and

generally using commercially reasonable efforts to obtain the prompt and timely FCC Consent; and

(c) after joining in the filing of the application for FCC Consent, apply promptly to the FCC for a change in the Station call sign to take effect upon Closing so as to avoid confusion with Seller's continuing operation of Station KCSM (FM), San Mateo, California.

ARTICLE 5: JOINT COVENANTS

Buyer and Seller hereby covenant and agree as follows:

5.1 Control. Buyer shall not, directly or indirectly, control, supervise or direct the operation of the Station prior to Closing. Consistent with the Communications Act and the FCC rules and regulations, control, supervision and direction of the operation of the Station prior to Closing shall remain the responsibility of Seller as the holder of the FCC Licenses.

5.2 Risk of Loss. Seller shall bear the risk of any loss of or damage to the Tangible Personal Property located at the Mt. Sutro transmitter site and necessary for the operation of the Station as it is operated as of the Effective Date (the "Sutro Equipment") at all times until the Closing, and Buyer shall bear the risk of any such loss or damage thereafter. In the event that any loss of or material damage to the Sutro Equipment occurs after the Effective Date but prior to Closing, then upon becoming aware of such loss or material damage, Seller shall use commercially reasonable efforts to promptly notify Buyer in writing, and it shall be the responsibility of Seller, prior to Closing, to repair or cause to be repaired or replaced, and to restore, the affected Sutro Equipment substantially to its condition prior to any such loss, damage or destruction; provided, that in the event that any Sutro Equipment is not repaired, replaced, or restored prior to Closing, Buyer, at its sole option, upon written notice to Seller: (a) may elect to postpone the Closing until the earlier of (A) such time as the property has been repaired, replaced, or restored in all material respects, or (B) up to six (6) months from the date when all other conditions to Closing herein have been satisfied (other than those conditions that by their nature are to be satisfied at Closing, but subject to the satisfaction of those conditions at such time); or (b) may at any time during such six (6) month period elect to consummate the Closing and accept the property in its then condition, in which event the Purchase Price shall be reduced by the estimated cost of such repair, replacement or restoration of the Sutro Equipment as determined by an independent third-party engineer agreeable to both Parties, which engineer Seller and Buyer shall instruct to base the estimate on the least expensive approach that complies with good engineering practices, considering the timeframe of Repacking. If Buyer shall extend the time for Closing pursuant to clause (a) above, the provisions of Section 10.1(d) shall be tolled for such time as Buyer has elected to postpone the Closing pursuant to this Section 5.2 and Seller is using reasonable best efforts to effect such repair, replacement or restoration, and for five (5) business days after the property involved has been repaired, replaced or restored in all material respects.

5.3 Consents.

(a) The parties shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Station Contract (which commercially

reasonable efforts shall not require any payment to any such third party), but no such consents shall be conditions to Closing except for the Required Consents. Receipt of consents designated with a diamond on *Schedule 1.1(c)* shall be a condition precedent to Buyer's obligation to close under this Agreement (the "Required Consents").

(b) To the extent that any Station Contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Station Contract; provided, however, with respect to each such Station Contract, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Station Contract from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Station Contract from and after Closing in accordance with its terms. This subparagraph 5.3(b) shall not apply to the Required Consents.

5.4 FCC Qualification. Neither Buyer nor any person with an attributable interest in Buyer shall file any application to acquire any station or otherwise operate any station if, as a result, such action would cause Buyer, or any person with an attributable interest in Buyer, to have an attributable interest in, and/or seek to acquire an attributable interest in, any station(s) which would involve a greater number of stations than would be permitted, absent an exemption or waiver, under the Communications Act, or any of the rules, regulations or policies the FCC, including the FCC's multiple ownership rules, in effect from time to time, or which would raise market concentration questions under applicable law.

5.5 Actions. After Closing, if reasonably requested by Seller, Buyer shall cooperate with Seller in the investigation, defense or prosecution of any action that is pending or threatened against Seller or its affiliates with respect to the Station, whether or not such action is subject to a claim for indemnification pursuant to this Agreement; provided, however, that Seller shall reimburse Buyer for the out-of-pocket costs (including reasonable attorneys' fees), if any, reasonably incurred by Buyer to comply with this Section 5.5.

ARTICLE 6: SELLER CLOSING CONDITIONS

The obligation of Seller to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Seller):

6.1 Representations and Covenants.

(a) The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement.

(b) The covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with and performed in all material respects.

(c) Seller shall have received a certificate dated as of the Closing Date from Buyer executed by an authorized officer of Buyer to the effect that the conditions set forth in Sections 6.1(a) and (b) have been satisfied.

6.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

6.3 FCC Authorization. The FCC Consent shall have been obtained.

6.4 Deliveries. Buyer shall have complied with its obligations set forth in Section 8.2 (Buyer Documents).

ARTICLE 7: BUYER CLOSING CONDITIONS

The obligation of Buyer to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Buyer):

7.1 Representations and Covenants.

(a) The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement.

(b) The covenants and agreements to be complied with and performed by Seller at or prior to Closing shall have been complied with and performed in all material respects.

(c) Buyer shall have received a certificate dated as of the Closing Date from Seller executed by an authorized official of Seller to the effect that the conditions set forth in Sections 7.1(a) and (b) have been satisfied.

7.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

7.3 FCC Authorization. The FCC Consent shall have been obtained and, unless waived by Buyer, the FCC Consent shall have become a Final Order. For purposes of this Agreement, the term "Final Order" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the normal time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

7.4 Deliveries. Seller shall have complied with its obligations set forth in Section 8.1 (Seller Documents).

7.5 Consents. The Required Consent shall have been obtained, including but not limited to landlord consents for all studio and transmitter site leases (to the extent such leases require such consent) being assigned and assumed hereunder.

ARTICLE 8: CLOSING DELIVERIES

8.1 Seller Documents. At Closing, Seller shall deliver or cause to be delivered to Buyer:

- (i) the certificate described in Section 7.1(c);
- (ii) an assignment of FCC authorizations assigning the FCC Licenses from Seller to Buyer;
- (iii) an assignment and assumption of contracts assigning the Station Contracts from Seller to Buyer;
- (iv) an assignment and assumption of intangible assets assigning the Intangible Assets (if any) from Seller to Buyer;
- (v) a bill of sale conveying the Tangible Personal Property from Seller to Buyer;
- (vi) a copy of the Required Consents;
- (vii) certified resolutions of Seller's Board of Trustees approving the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated herein, and the delivery of the closing documents provided for hereunder; and
- (viii) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Station Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens.

8.2 Buyer Documents. At Closing, Buyer shall deliver or cause to be delivered to Seller:

- (i) the Purchase Price in accordance with Sections 1.4 (Purchase Price) and 5.2 (Risk of Loss) and 10.6(d) hereof;
- (ii) the certificate described in Section 6.1(c);
- (iii) an assignment and assumption of contracts assuming the Station Contracts;
- (iv) an assignment and assumption of intangible assets assigning the Intangible Assets (if any) from Seller to Buyer;
- (v) a good standing certificate issued by the Secretary of State of Buyer's jurisdiction of formation;
- (vi) certified resolutions of Buyer's Board of Directors approving the execution, delivery, and performance of this Agreement and the consummation of the

transactions contemplated herein, and the delivery of the closing documents provided for hereunder; and

(vii) such other documents and instruments of assumption that may be necessary to assume the Assumed Obligations (as defined in Section 1.3).

ARTICLE 9: SURVIVAL; INDEMNIFICATION

9.1 Survival.

(a) Except as provided by Section 1.5 (Deposit) and Section 10.4 (Liquidated Damages) with respect to Liquidated Damages, the termination of this Agreement shall not relieve any party of liability for any material breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Section 1.5 (Deposit) and Section 11.1 (Expenses) shall survive any termination of this Agreement.

(b) The representations and warranties in this Agreement, made as of the Closing, shall survive for a period of one (1) year from the Closing Date, whereupon they shall expire and be of no further force or effect, except (i) those under Section 2.1 (Organization), Section 2.2 (Authorization), Section 2.5 (Taxes), Section 3.1 (Organization) and Section 3.2 (Authorization) (collectively, the “Fundamental Representations”), all of which shall survive until the expiration of any applicable statute of limitations, and (ii) that if within such applicable period the indemnified party gives the indemnifying party written notice of a claim for breach thereof describing in reasonable detail the nature and basis of such claim, then such claim shall survive until the earlier of resolution of such claim or expiration of the applicable statute of limitations. The covenants and agreements in this Agreement that are to be performed after the Closing shall survive until performed and any other covenants and agreements shall survive for a period of nine (9) months from the Closing Date.

9.2 Indemnification.

(a) From and after Closing, Seller shall defend, indemnify and hold harmless Buyer and its officers, directors, members and employees from and against and in respect of, and reimburse them for, any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys’ fees and expenses (“Damages”) resulting from:

(i) any material breach by Seller of its representations and warranties made under Article 2 of this Agreement; or

(ii) any material breach by Seller of any material obligation under this Agreement; or

(iii) any material breach by Seller of the Retained Obligations (as defined in Section 1.3); or

(iv) the business or operation of the Station before the Effective Time, except for the Assumed Obligations (as defined in Section 1.3); or

(v) any third party claim, demand, lawsuit or action resulting from any material breach or deviation, as applicable, as described in Section 9.2(a)(i)-(iv).

(b) Notwithstanding the foregoing or anything else in the Agreement to the contrary, Seller shall have no liability to Buyer until Buyer's aggregate Damages exceed the sum of Five Thousand Dollars (\$5,000) ("Basket"), after which the amount of the Basket shall be excluded from any calculation of Damages.

(c) From and after Closing, Buyer shall defend, indemnify and hold harmless Seller and its officers, directors, members and employees from and against and in respect of, and reimburse them for, any and all Damages incurred by Seller in connection any claim, demand, lawsuit or action arising out of or resulting from:

(i) any material breach by Buyer of its representations and warranties made under this Agreement; or

(ii) any material breach by Buyer of any material obligation under this Agreement; or

(iii) any material breach by Buyer of the Assumed Obligations (as defined in Section 1.3); or

(iv) the business or operation of the Station after the Effective Time, except for the Retained Obligations; or

(v) any third party claim, demand, lawsuit or action resulting from any material breach, or the business or operation of the Station, as applicable, as described in Section 9.2(c)(i)-(iv).

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Buyer shall have no liability to Seller until Seller's aggregate Damages exceed the Basket, after which the amount of the Basket shall be excluded from any calculation of Damages.

9.3 Indemnification Procedures for Third Party Claims.

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties that is subject to indemnification hereunder (a "Claim"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's rights or the indemnifying party's obligations except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced and provided that such notice is given within the time period described in Section 9.1 (Survival).

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel selected by it. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise or settlement of such Claim with counsel selected by it and the indemnifying party shall be required to pay for reasonable attorneys' fees and costs

incurred by the indemnified party (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

(c) Anything in this Agreement to the contrary notwithstanding:

(i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of the Claim;

(ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment that does not include the giving by the claimant to the indemnified party a release from all liability in respect of such Claim subject to the limitations herein; and

(iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel concerning such Claim and the indemnifying party and the indemnified party and their respective counsel shall cooperate in good faith with respect to such Claim.

(d) In determining the amount of any Damages hereunder, the amount shall be determined after deducting the amount of any insurance proceeds and other third party recoveries actually received by Seller or Buyer or any of its affiliates in respect thereof (which proceeds and recoveries Seller or Buyer agrees to use, or to cause any such affiliate to use, diligent efforts to obtain) and the amount of any tax benefit related thereto. If an indemnification payment is received by Seller or Buyer, and Seller or Buyer or any of their affiliates later receives insurance proceeds, other third party recoveries, or tax benefits in respect of the related Damages, Seller or Buyer shall promptly pay to the other a sum equal to the lesser of (y) the actual amount of insurance proceeds, other third party recoveries, and tax benefits or (z) the actual amount of the indemnification payment previously paid by the other with respect to such Damages. Seller and Buyer shall use, and shall cause its affiliates to use, commercially reasonable efforts to mitigate the amount of Damages for which it may be entitled to indemnification hereunder.

9.4 Remedies Exclusive.

(a) The remedies provided in this Article 9 and in Article 10 shall be the exclusive remedies of the parties hereto in connection with the transactions contemplated by this Agreement, including without limitation any breach or non-performance of any representation, warranty, covenant, obligation or agreement contained herein. No party (and no affiliate of any party) may commence any suit, action or proceeding against any other party hereto with respect to the subject matter of this Agreement, whether in contract, tort or otherwise, except to enforce such party's express rights pursuant to this Article 9 or Article 10. The provisions of Articles 9 and 10 were specifically bargained for and reflected in the amounts payable to Seller in connection with the transactions contemplated hereby.

(b) Without limiting the foregoing and notwithstanding anything that may be expressed or implied in this Agreement, Seller and Buyer each agree and acknowledge that

their only recourse hereunder is against the other. Without limiting the generality of the foregoing sentence, Seller and Buyer each agree and acknowledge that (a) no recourse shall be had against any past, current or future affiliate, shareholder, director, officer, employee, agent, trustee, board or other governing entity, or attorney of the other (collectively, the “Excluded Persons”), with respect to the subject matter of this Agreement, and (b) neither it nor any of its affiliates shall commence any suit, action or proceeding against any Excluded Person with respect to the subject matter of this Agreement, whether in contract, tort or otherwise.

9.5 Tax Treatment of Indemnity Payments. It is the intention of the parties to treat any indemnity payment made under this Agreement as an adjustment to the purchase price for all purposes, and the parties agree to file their tax returns accordingly.

ARTICLE 10: TERMINATION; SPECIFIC PERFORMANCE; LIMITATION OF LIABILITY

10.1 Termination. Subject to Section 9.1 (Survival), this Agreement may be terminated prior to Closing as follows:

- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller breaches its representations or warranties or defaults in the performance of its obligations or covenants set forth in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period (as defined in Section 10.2);
- (c) by written notice of Seller to Buyer if Buyer breaches its representations or warranties or defaults in the performance of its obligations or covenants set forth in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period; provided, however, that the Cure Period shall not apply to Buyer’s obligations to make the Deposit on the date hereof and to pay the Purchase Price at Closing; or
- (d) by written notice of Seller to Buyer or Buyer to Seller, as long as the terminating party is not in breach of any of its representations or warranties or in default in the performance of any of its obligations or covenants set forth in this Agreement, if Closing does not occur by the date twelve (12) months after the date of this Agreement.

10.2 Cure Period. Each party shall give the other party prompt written notice upon learning of any breach or default by the other party under this Agreement. The term “Cure Period” as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) twenty (20) calendar days thereafter or (ii) the Closing Date; provided, however, that if the breach or default is non-monetary and cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date.

10.3 Specific Performance. Notwithstanding Section 9.4(a), in the event of failure or threatened failure by either party to comply with the terms of this Agreement, the other party shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforce this Agreement by a decree of specific

performance requiring compliance with this Agreement. If a party brings an action to enforce specific performance under this Agreement, the other party shall waive the defense that there is an adequate remedy at law and waive any requirement to post a bond or other security.

10.4 Liquidated Damages. If Seller terminates this Agreement pursuant to Section 10.1(c), then Seller shall be entitled to the Deposit and such payment shall constitute liquidated damages and the sole remedy of Seller for a breach by Buyer of this Agreement. The parties acknowledge and agree that payment of such amount shall constitute payment of liquidated damages and is not a penalty and that the liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder. In addition, if Buyer contests Seller's right to the Deposit, then the prevailing party in any action by Seller to enforce its right to the Deposit shall be entitled to payment by the other party of the reasonable attorneys' fees incurred by the prevailing party in such action.

10.5 Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, neither party shall have any liability to the other under any circumstances for special, indirect, consequential, punitive or exemplary damages or similar damages of any kind, including any damages calculated using a "multiplier" or any other similar method, whether or not foreseeable, occasioned by any failure to perform or the breach or default of any representation, covenant, warranty or other obligation under this Agreement, whether based in negligence or otherwise.

10.6 Special Termination Right of Buyer. Subject to Section 9.1 (Survival), in addition to the termination rights set forth in Section 10.1 (Termination), Buyer may terminate this Agreement prior to Closing as set forth in this Section 10.6:

(a) Buyer may terminate this Agreement by written notice to Seller if LocusPoint Networks LLC ("LPN") or any party affiliated with LPN files with the FCC any petition or opposition to the FCC Application or to Seller's or Buyer's qualifications to hold a broadcast license, and as a result of such filing, either (i) FCC Consent is delayed more than six (6) months after the date on which the FCC Application is filed and it is not then reasonably foreseeable that FCC Consent will be obtained within sixty (60) days thereafter or (ii) FCC Consent is delayed more than eight (8) months after the date on which the FCC Application is filed.

(b) Buyer may terminate this Agreement by written notice to Seller if LPN or any party affiliated with LPN initiates any legal or equitable action to oppose, obstruct or delay the sale of the Station Assets by Seller or purchase of the Station Assets by Buyer and thereby obtains an order from a court of competent jurisdiction that is legally binding on one or both parties to this Agreement that (i) by its terms prevents the Closing; (ii) by its terms imposes conditions on the Closing that either Buyer or Seller are not willing or able to satisfy within ten (10) days after the date on which all other closing conditions set forth in Articles 6 and 7 have been met or waived; or (iii) otherwise delays the Closing for more than eight (8) months after the date on which the FCC Application is filed.

(c) Buyer may terminate this Agreement by written notice to Seller if Buyer is for any reason made a party to any legal or equitable action by LPN or Seller arising out of the dispute between LPN and Seller that is the subject of the litigation described in Schedule 2.10.

(d) In the event that Buyer forebears from exercising its rights to terminate under Section 10.6(a)-(c), and Buyer deems it necessary or advisable to incur legal costs and other related expenses in connection with responding to or defending against any claims or assertions relating to Buyer, then the Purchase Price shall be reduced by such costs and expenses reasonably incurred by Buyer prior to Closing; provided, that Buyer shall notify Seller of such expenses as they are incurred (i.e, within ten (10) days of receiving each invoice). Notwithstanding the immediately foregoing sentence, at any time after such expenses incurred by Buyer exceed Seventy-Five Thousand Dollars (\$75,000.00) in the aggregate, Seller shall have the right to reimburse such expenses to Buyer and terminate this Agreement without further liability to Buyer by giving Buyer ten (10) days' notice of its intent to do so; unless Buyer gives notice to Seller within such 10-day notice period that it agrees to pay such expenses in excess of \$75,000 going forward.

ARTICLE 11: MISCELLANEOUS

11.1 Expenses. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. Transfer or sales or use taxes, fees and charges applicable to the transfer of the Station Assets under this Agreement, if any, shall be paid one-half by Buyer and one-half by Seller. Each party is responsible for any commission, brokerage fee, advisory fee or other similar payment that arises as a result of any agreement or action of it or any party acting on its behalf in connection with this Agreement or the transactions contemplated hereby.

11.2 Further Assurances. After Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

11.3 Assignment. Neither party may assign all or part of this Agreement without the prior written consent of the other party hereto. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns, and no assignment shall relieve any party of any obligation or liability under this Agreement.

11.4 Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any party may request by written notice):

To Seller: San Mateo Community College District
3401 CSM Drive
San Mateo, California 94402
Attn: Executive Vice Chancellor

with copies to: Kathy Blackwood
San Mateo County Community College District
3401 CSM Drive
San Mateo, California 94402

and Pillsbury Winthrop
1200 – 17th St. SW
Washington, DC 20036
Attn: John Hane

To Buyer: Rural California Broadcasting Corporation
5850 Labath Avenue
Rohnert Park, CA 94928
Attn: Nancy Dobbs, President and CEO

with copy to: Gray Miller Persh LLP
1200 New Hampshire Avenue NW, Suite 410
Washington, DC 20036
Attn: Todd D. Gray

11.5 Amendments. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought.

11.6 Entire Agreement. This Agreement (including the Schedules hereto) constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement and each party hereby confirms that it has not relied upon any representations or statements, whether written or oral, except those representations and warranties set forth in Article 2 and 3 of this Agreement.

11.7 Severability. If any court or governmental authority holds any provision in this Agreement invalid, illegal or unenforceable under any applicable law, then, so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

11.8 No Beneficiaries. Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their successors and permitted assigns.

11.9 Governing Law and Venue. The construction and performance of this Agreement shall be governed by the laws of the State of California without giving effect to the

choice of law provisions thereof. Any action to enforce the terms of this Agreement shall be brought in the courts of the State of California with venue lying in the County of San Mateo.

11.10 Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement and the other agreements, documents and instruments contemplated herein, all provisions shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authoring any of the provisions.

11.11 Counterparts. This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

**San Mateo County Community
College District**

**Rural California Broadcasting
Corporation**

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

List of Schedules

- 1.1(a) – FCC Licenses
- 1.1(b) – Tangible Personal Property
- 1.1(c) – Station Contracts
- 1.2(l) – Other Excluded Assets
- 1.6 – Repacking Expenses
- 1.7 – Additional Consideration
- 2.10 – Seller Litigation

Schedule 1.1(a)

FCC Licenses, Applications, and Authorizations

1. Television broadcast station license (FCC file no. BLEDT-20091124AHY).
2. License renewal authorization (FCC file no. BREDT-20140721AEJ; expires 12/1/2022).
3. *Construction permit authorizing minor modification of BLEDT-20091124AHY to specify operation on Channel 27 (FCC File No. 0000028093).
4. Television broadcast station auxiliary antenna license (FCC file no. BXLEDT-20120621AAB).
5. Earth Station license E040364 (FCC file no. SES-REG-20040909-01357; expires 9/9/2019).
6. FCC Form 399, Incentive Auction Relocation Reimbursement (file number 0000028092), filed July 11, 2017, and pending with the FCC.

*Pursuant to the FCC's process of "repacking" television broadcast stations, Seller has been assigned to Transition Phase 8, and is required to complete construction and testing of Station's authorized Channel 27 facilities on or before **January 18, 2020**. The Station must discontinue operations on its pre-auction channel on or before **March 13, 2020** (together, the "Repacking Deadlines"). See FCC Public Notice "Incentive Auction Closing and Channel Reassignment Public Notice", DA 17-314 (released April 13, 2017). NOTWITHSTANDING ANYTHING IN THE AGREEMENT OR THE SCHEDULES THERETO TO THE CONTRARY, SELLER MAKES NO REPRESENTATION OR WARRANTY REGARDING THE FEASIBILITY OR ABILITY OF SELLER OR BUYER TO MEET THE FCC'S REPACKING DEADLINES.

Schedule 1.1(b)

Tangible Personal Property

Property subject to Liens identified with a diamond (◆).

Mt. Sutro Transmitter Site Equipment

TRANSMITTER EQUIPMENT			
<u>TRANSMITTER LOCAL NAME</u>	<u>MANUFACTURER</u>	<u>MODEL</u>	<u>STATUS</u>
DTV ANTENNA SYSTEM			ACTIVE
43 WAVEGUIDE COMBINER	DIELECTRIC		ACTIVE
HARRIS DTV TV XMTR	HARRIS	DHD90P4	ACTIVE
MISCELLANEOUS SUTRO SITE EQUIPMENT	MISCELLANEOUS		

Other Tangible Personal Property

MASTER CONTROL EQUIPMENT			
<u>MCR LOCAL NAME</u>	<u>MANUFACTURER</u>	<u>MODEL</u>	<u>STATUS</u>
AES PATCH BAY	ADC	DAB407-4MKII	Active
SDI/HD PATCH BAY	ADC	PPI2226RS-SVJT-BK	Active
AJA-1 FRAME SYNC	AJA VIDEO SYSTEMS	FS-1	Active
AJA-2 FRAME SYNC	AJA VIDEO SYSTEMS	FS-1	Active
SUNDANCE AUTOMATION	AVID	Titan	Active
KVM #1	AVOCENT	AMX 5130	Active
KVM #10	AVOCENT	AMX 5130	Active
KVM #2	AVOCENT	AMX 5130	Active
KVM #3	AVOCENT	AMX 5130	Active
KVM #4	AVOCENT	AMX 5130	Active
KVM #5	AVOCENT	AMX 5130	Active
KVM #6	AVOCENT	AMX 5130	Active
KVM #7	AVOCENT	AMX 5130	Active
KVM #8	AVOCENT	AMX 5130	Active

KVM #9	AVOCENT	AMX 5130	Active
KVM BASE STATION	AVOCENT	AMX 5010	Active
EVERTZ HD KEYER	EVERTZ	HD9625LGA- EAS Plus BP	Active
EVERTZ KEYER #1	EVERTZ	9625LGA Plus EAS	Active
EVERTZ KEYER #2	EVERTZ	9625LGA	Active
EVERTZ KEYER #3	EVERTZ	9625LGA Plus EAS	Active
EVERTZ KEYER #4	EVERTZ	9625LGA Plus EAS	Active
MONITOR WALL ENGINE - MC	EVERTZ	MVP	Active
DPS1 SYNCRONIZER/TBC	LEITCH	DPS 575	Active
DPS2 SYNCRONIZER/TBC	LEITCH	DPS 575	Active
MASSLOGGER	MASSTECH	ML-350-015	out of service
20 RACKS AND 30KFT WIRING	MIDDLE ATLANTIC / BELDEN		Active
MEDIAPORT 4CH 1	OMNEON	MIP-5322	Active
MEDIAPORT 4CH 2	OMNEON	MIP-5322	Active
MULTIPORT 1	OMNEON	PR-MIP-5501	Active
MULTIPORT 2	OMNEON	PR-MIP-5501	Active
OMNEON CONTROL SERVER	OMNEON	NCM 2003	Active
PROBROWSE PROXY GEN 1	OMNEON	MPB-1002-G	inactive
PROBROWSE PROXY GEN 2	OMNEON	MPB-1002-G	inactive
PROBROWSE SERVER	OMNEON	MPB-1001- HC	inactive
DVC PRO VCR 4	PANASONIC	AJ-SD930	Active
DVC PRO VCR 8	PANASONIC	AJ-SD930	Active
DVC PRO VCR	PANASONIC	SD255	inactive
DVC PRO VCR	PANASONIC	SD255	inactive
DVC PRO VCR	PANASONIC	SD255	inactive
XD CAM VCR	SONY	PDWHD1500	Active
HD CAM VCR	SONY	HDW-1800	Active
DIGIBETA VCR	SONY	DVW-M2006	Active
MULIT MONITOR (MANY)	WOHLER/MARSH ALL		Active
RACK MT	PANASONIC		Active

MONITORS(3)			
19" MONITORS (MANY)	SAMSUNG		Active
DEKOCAST C	PINNACLE	DEKOCAST	Active
DVD RECORDER	PIONEER	PRV-LX1	inactive
SENCORE ATLAS IRD	SENCORE	MRD 3187A	Active
SENCORE ATLAS IRD	SENCORE	MRD 3187A	Active
SENCORE ATLAS IRD	SENCORE	MRD 3187A	Active
IRD A	THOMSON	RX8200	Active
IRD B	THOMSON	RX8200	Active
IRD C	THOMSON	RX8200	Active
IRD D	THOMSON	RX8200	Active
IRD E	THOMSON	RX8200	Active
IRD F	THOMSON	RX8200	Active
SYNCRONIZER	SNELL & WILCOX	TBS 180AV	Active
DIGI BETA	SONY	DVWM2000	Active
QC2 MONITOR	SONY	BVM-D20F1U	Active
QC3 MONITOR	SONY	BVM-D20F1U	inactive
MULTIPLEXER (2)	TANDBERG	M2/MUXMX5 620	Active
SD ASI RECEIVER #1	TANDBERG	TT1260/DIRB AS	Active
SD ASI RECEIVER #2	TANDBERG	TT1260/DIRB AS	Active
SD ASI RECEIVER #3	TANDBERG	TT1260/DIRB AS	Active
SD ENCODER #1	TANDBERG	M2/ENC/E571 0/ATSC	Active
SD ENCODER #2	TANDBERG	M2/ENC/E571 0/ATSC	Active
SD ENCODER #3	TANDBERG	M2/ENC/E571 0/ATSC	Active
SD ENCODER #4	TANDBERG	M2/ENC/E571 0/ATSC	Active
JUPITER CONTROL SYSTEM	THOMSON	Jupiter	inactive
ROUTER CNTRL PANELS(4)	THOMSON	Various	Active
SI-1	THOMSON	SI-3000C	Active
SI-2	THOMSON	SI-3000C	Active
TRINIX ROUTER	THOMSON	Trinix DV33128	Active
VENUS ROUTER	THOMSON	Venus	Active

VM-1	THOMSON	VM-3000C	Active
QC1 AUDIO	WOHLER	AMP1-DA	Active
QC2 AUDIO	WOHLER	AMP1-DA	Active
WAVEFORM MONITOR	TEKTRONIX	7120	Active
WAVEFORM RASTERIZER	TEKTRONIX	7020	Active
<u>PRODUCTION LOCAL NAME</u>	<u>MANUFACTURER</u>	<u>MODEL</u>	<u>STATUS</u>
BATTERY BELT #1	ANTON BAUER	30/13	ACTIVE
BATTERY BELT #2	ANTON BAUER	30/13	ACTIVE
DIONIC 90 #3	ANTON BAUER	Dionic 90	out of service
DIONIC 90 #4	ANTON BAUER	Dionic 90	out of service
DIONIC 90 #5	ANTON BAUER	Dionic 90	out of service
DIONIC 90 #6	ANTON BAUER	Dionic 90	out of service
QUAD 2702 POWERCHARGER	ANTON BAUER	Quad 2702	out of service
JOKER NEWS COMBO KIT	K5600	K0200/400JBN DOUB+3	ACTIVE
FIELD MIXER	SHURE	FP32A	ACTIVE
FIELD MIXER	SHURE	M67	INACTIVE
FIELD MONITOR	SONY	PVM-8041Q	ACTIVE
Aspect ratio converter	Picolink		Active
XDCAMHD CAMCORDER	SONY	PDWF-335L	ACTIVE
FIELD CAMERA ZOOM CONTROL	CANON	ZSG-200M	ACTIVE
XDCAM WIDE ANGLE LENS	CANON	KH10EX3.6B IRSE	ACTIVE
XDCAM ZOOM LENS	CANON	KH21EX5.7 IRSE SX12	ACTIVE
TRIPOD SYSTEM	Vinten	Vision 10	ACTIVE
TRIPOD SYSTEM (matte box)	O'CONNOR	50	ACTIVE
MATTE BOX	VOCAS	MB-325	ACTIVE
Lavalier Microphone	Sony	ECM- 66	Active
Lavalier Microphone	Sony	ECM- 66	Active
XDCAM HD DISC DRIVE	SONY	PDW-U1	Active

XDCAM HD DISC DRIVE	SONY	PDW-U1	Active
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Schedule 1.1(c)

Station Contracts

- ◆ Transmitter site lease between Sutro Tower, Inc. and San Mateo County Community College District dated January 16, 2003, as amended May 22, 2014, extended term through February 28, 2020 (“Sutro Lease”).
- ◆ Repacking services agreement, Sutro Tower, Inc. and San Mateo County Community College District dated July 31, 2017, term concurrent with Sutro Lease.

- ◆ *Designates Station Contract requiring third party consent.*

Schedule 1.2(l)

Other Excluded Assets

The Rejected Personal Property.

Schedule 1.6
Unreimbursed Repacking Expenses

None.

Schedule 1.7

Additional Consideration

- 1. Television and Radio Announcements.** Beginning on the date of Closing and ending on the date five (5) years thereafter, Buyer shall make available to Seller, at no cost to Seller, on-air underwriting announcement spots of up to thirty (30) seconds in length on KRCB TV 22 and on KRCB FM RADIO 91. Each month Buyer shall produce one (1) announcement for Seller, based on copy provided by Seller, to describe to the Buyer's broadcast area (including but not limited to the San Francisco North Bay Region), its activities and initiatives for the benefit of Seller's alumni, prospective students and parents (the "Messages"). In the alternative, Seller may provide pre-produced announcement to Buyer in a manner and format reasonably acceptable to Buyer. Seller shall be responsible for scheduling the Messages with Buyer on a monthly use-it-or-lose-it basis, and for providing the copy or pre-produced announcements to Buyer at least fourteen (14) days prior to Seller's first desired broadcast date. Buyer will schedule five (5) monthly spot placements on KRCB TV 22 and ten (10) monthly spot placements on KRCB FM RADIO 91. Buyer shall run all Messages between the hours of 6 am and midnight local time on a run-of-schedule basis with approximately equal distribution across dayparts. Should Seller not elect to utilize any Messages by the end of any month, such unused Messages shall be forfeited and may not be carried forward to future months (and any order that is not timely placed by Seller shall be deemed used). Buyer will provide to Seller each month a written summary of when (date and time) the Messages aired on KRCB TV 22 and on KRCB FM RADIO 91 in the previous month, provided that Seller informs Buyer to whom and where this "proof-of-performance" documentation should be sent. The Messages shall conform to the regulations and policies applicable to noncommercial educational broadcasting, including public TV and radio industry standards, and Buyer shall have the right to preempt or reject any Message(s) and otherwise maintain control over the programming of the stations in order to comply with applicable laws (including without limitation FCC rules and regulations) and Buyer's standards and practices, which Buyer shall apply to the Messages on a uniform and non-discriminatory basis as compared to all other underwriting announcements broadcast by each respective station. Buyer shall make-good any preempted or rejected Messages subject to Seller timely providing make-good copy or pre-produced announcements. Notwithstanding anything in the Agreement or in this Schedule 1.7, Seller has no obligation make use of the Messages.
- 2. Student Internships.** At the beginning of the first semester (of Seller's student campuses) following the date of Closing, or another date mutually agreed upon by the parties, until three (3) years thereafter, pursuant to an appropriate internship site agreement between Seller and Buyer with provisions that are customary for community college student internships (but excluding any payments from Seller to Buyer), Buyer shall work with Seller to provide training, in the form of educational internships, at Buyer's studio and office location for up to six of Seller's students per

year (three (3) students per semester) working in Buyer's marketing, development, production, telecommunications, and social media departments. The objective of the training and educational internship program is to provide Seller's students with applicable working experiences that allow the Seller's students to learn and gain onsite training from Buyer's staff. Buyer and Seller agree to cooperate during the three (3) year period in designing and implementing the actual educational internship program. Buyer and Seller will mutually agree on the number of hours the students will work on a weekly basis and the number of weeks per year that the training and educational internship will be offered. Transportation to and from Buyer's studio and office location is the responsibility of the individual students and/or the Seller's educational program. Each year Buyer and Seller will review and evaluate the established educational internship program to consider whether operational and content modifications are necessary and appropriate. The educational internships training shall be unpaid, unless the nature and scope of the responsibilities performed is appropriate for paid services, as determined by Buyer in its reasonable good-faith discretion, in which case Buyer shall make payment for such services. In the first year of the student training pursuant to this Agreement, Buyer and Seller will make reasonable efforts to establish and be operational with the training and educational internship program on or before six (6) weeks prior to the commencement of the first semester. Notwithstanding anything in the Agreement or in this Schedule 1.7, Seller shall have no obligation to make use of the student internships.

3. **Carriage of KCSM(FM) video channel via TV Digital Broadcast.** Beginning at the Closing, and for five (5) years thereafter, Buyer will maintain carriage of the KCSM(FM) video channel as broadcast on the Station as of the Effective Date (the "KCSM(FM) Stream"). Carriage of the KCSM(FM) Stream shall in all cases be consistent with FCC requirements for noncommercial educational stations and Sections 73.503 and 73.621 of the FCC rules. Buyer's retransmission of the KCSM(FM) Stream will include the slide show featuring the Jazz Datebook, community events and Jazz Trivia substantially as they are carried as of the Effective Date, provided that Seller continues to produce and furnish such features to Buyer. Seller shall be responsible for providing the KCSM(FM) Stream to Buyer via a technological solution in an ASI encoded format that the Buyer, in its reasonable discretion, deems appropriate for integration into the Station's multi-channel digital stream. Seller shall be solely responsible for the costs of production and encoding of the KCSM(FM) Stream, for the costs of providing the KCSM(FM) Stream to Buyer, and for the content of the KCSM(FM) Stream, and shall obtain and maintain commercially reasonable media perils insurance for Buyer's broadcast of the KCSM(FM) Stream with such insurance including Buyer as an additional named insured. Buyer, at its sole discretion, shall have the exclusive right to preempt or reject any specific programming of the KCSM(FM) Stream if Buyer, in its reasonable judgment, concludes that such programming does not serve the public interest, or that alternate programming or alternative program scheduling, would better address local needs. As between the parties, all right, title and interest in and to the KCSM(FM) Stream, and the right to authorize the use of the KCSM(FM) Stream in any manner and in any media whatsoever, shall be and remain vested at all times solely in Seller.

Seller shall secure, at its sole cost and expense, any rights licenses that might be necessary for the transmission of the KCSM(FM) Stream over the Station.

Notwithstanding anything in the Agreement or in this Schedule 1.7, Seller shall have no obligation to continue providing the KCSM(FM) Stream to Buyer and Seller does not grant any rights to Buyer with respect to the KCSM(FM) Stream.

4. **Local Programs.** Each month during the five (5) year period immediately following Closing, Buyer will broadcast on its primary (.1 or equivalent) channel up to thirty (30) minutes per month of Seller-produced video programming (each, a “Local Program”) in a timeslot of Buyer’s choice in pre-prime or on weekends. Seller will give notice of its intent to provide a Local Program and its total run time at least two (2) months in advance of the calendar month in which it intends to provide such Local Program (e.g., Seller will give notice no later than September 30 with respect to Local Program to air in December). Each Local Program must be delivered to Buyer no later than one (1) month in advance of the calendar month in which Seller wishes the Local Program to air. Local Programs must adhere to FCC requirements for non-commercial stations, comply with Buyer’s reasonable technical standards, and be delivered by Seller to Buyer in a mutually agreeable manner. Buyer, at its sole discretion, shall have the right to preempt or reject any Local Program provided by Seller if Buyer, in its reasonable judgment, concludes that such Local Program does not serve the public interest, or that alternate programming would better address local needs. Notwithstanding anything in the Agreement or in this Schedule 1.7, Seller shall have no obligation to provide any Local Program or to make use of the rights granted to Buyer herein.

Schedule 2.10

Seller Litigation

Seller has sued LocusPoint Networks, LLC, LocusPoint II KCSM, LLC and PricewaterhouseCoopers Advisory Services LLC, and LocusPoint Networks, LLC and LocusPoint II KCSM, LLC have sued Seller, in Superior Court of the State of California, County of San Mateo, in each case raising claims arising out of a series of agreements between LocusPoint Networks, LLC and Seller regarding a potential sale of Station in the FCC's broadcast incentive auction. *See San Mateo County Community College District, et al vs. LocusPoint Networks, LLC, ET. AL.*, 17-CIV-01534; *LocusPoint Networks, LLC, et al vs. San Mateo County Community College District*, 17-CIV-01550. LocusPoint Networks, LLC has asserted to Seller that it believes those same agreements give LocusPoint Networks, LLC the right to block the sale of Station at this time. Seller disputes LocusPoint Networks, LLC's assertions for a number of reasons, including without limitation that LocusPoint Networks, LLC materially breached the agreements such that the provisions LocusPoint Networks, LLC has stated it relies upon for its assertions no longer bind Seller, and because any security interest LocusPoint Networks, LLC may hold is limited to the proceeds of the sale of certain assets used in the operation of the Station and does not extend to the assets themselves.



22 Battery Street, Suite 914, San Francisco, CA. 94111
Telephone: 415.735.3645 * Facsimile: 415.358.5732

This Escrow Company holds California Department of Business Oversight Escrow License No. 9635091

Escrow No. 100895

ESCROW INSTRUCTION AND AGREEMENT

This Escrow Instruction and Agreement ("Instruction") dated September __, 2017, shall not be binding on McGovern Escrow Services, Inc. ("Escrow Agent") until acknowledged and executed by all persons identified as principals herein.

This Agreement is entered into by and between SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT, a California Community College District ("Seller"), RURAL CALIFORNIA BROADCASTING CORPORATION, a California non-profit and nonstock corporation ("Buyer"), and the Escrow Agent. Seller and Buyer are sometimes referred to collectively as the "Parties, and each individually is a "Party".

WHEREAS, Seller and Buyer have entered into an Asset Purchase Agreement dated September __, 2017 the ("Agreement").

WHEREAS, under the terms of the Agreement the Seller desires to sell and assign to Buyer, and Buyer wishes to buy and take assignment of, certain assets of Seller and the FCC Licenses of that certain noncommercial educational television station known as KSCM-TV (the "Station"), under terms and conditions set forth in the Agreement.

WHEREAS, under the terms of the Agreement Buyer shall make a cash deposit, in immediately available funds, in the amount of Nine Hundred Sixty Thousand and No/100US (\$960,000.00).

NOW, THEREFORE, the Parties desire to establish an escrow account in which \$960,000.00 (the "Escrow Funds") will be deposited hereto by Buyer.

1. Deposit of Funds

On or before September __, 2017 (the "Closing Date"), Buyer shall cause to be deposited hereto the Escrow Funds.

The Escrow Funds are to be deposited in the form of a wire transfer payable to McGovern Escrow Services, Inc., Escrow No. 100895.

- a. Upon receipt of the Escrow Funds that have been deemed collected, the Escrow Agent is instructed to invest the Escrow Funds in one or more federally insured, interest bearing account. All interest accrued on the Escrow Funds shall be credited to Rural California Broadcasting Corporation for taxation purposes and reported as such.

- b. Concurrent with the execution of this Escrow Agreement, Buyer shall deliver to escrow:
 - i. A copy of the Certificate of Incorporation as filed with the California Secretary of State, and a Resolution designating signing authority for the corporation.
 - ii. Customer Identification form from the officers and/or any other signing authority of Buyer as required for bank interest bearing account purposes.
 - iii. IRS form W-9, Request for Taxpayer Identification Number and Certification from Rural California Broadcasting Corporation.
2. Disbursement of Funds

On or before three (3) business days prior to the Closing as defined in the Agreement, or three (3) business days prior to any other disbursement of Escrow Funds, Seller and Buyer shall submit to escrow mutual written instruction as to:

 - a. Any and all prorations and adjustments to be made between the Parties, and
 - b. The disbursement of the Escrow Funds to Seller and the accrued interest to Buyer, or
 - c. Any other disbursement of the Escrow Funds as contemplated in the Agreement.
3. Obligation to Disburse

Notwithstanding any provision to the contrary herein (or in the General Provisions attached), Escrow Agent shall effect the delivery and disbursement of the Escrow Property as set out in Section 2. within three (3) business days of receipt of the required authorization and instruction from the Parties.
4. Duties of Escrow Agent

Escrow Agent will not be liable for actions or omissions hereunder, except for its own gross negligence, bad faith or willful misconduct and, except with respect to claims based upon such gross negligence, bad faith or willful misconduct, such actions or omissions as are successfully asserted against Escrow Agent. Buyer and Seller shall jointly and severally indemnify and hold harmless Escrow Agent (and any successor Escrow Agent) from and against any and all losses, liabilities, claims, actions, damages and expenses, including reasonable attorney's fees and disbursements, arising out of and in connection with this Agreement. Without limiting the foregoing, Escrow Agent will in no event be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with any written notice of Buyer delivered to Escrow Agent in accordance with this Agreement. Each of Buyer and Seller hereby releases, waives, discharges and covenants not to sue the Escrow Agent for any action taken or omitted to be taken under this Agreement except to the extent caused by Escrow Agent's gross negligence, bad faith or willful misconduct.
5. Termination of Escrow
 - a. The date of termination is upon the distribution of the Escrow Property pursuant to this Agreement; provided, however, in the event any funds remain in the account on the first (1st) anniversary of the date of these escrow instructions and Agreement, these escrow instructions and Agreement shall be renewed on an annual basis until all such funds are disbursed subject to the terms of Section 5.(b) below.

- b. Should Escrow Agent at any time and for any reason desire to be relieved of its obligations as escrow holder hereunder, the Escrow Agent shall give written notice of its desire to be relieved to the Parties. The Parties shall, within (30) days of the receipt of such notice, appoint a successor escrow agent and instruct Escrow Agent to deliver the Escrow Funds hereunder to the successor escrow agent. If Escrow Agent is not notified of the appointment of a successor escrow agent within sixty (60) days of its transmission of notice under this Section, Escrow Agent shall hold the Escrow Funds until: (i) it receives the authorization and instruction described in Section 2; (ii) it receives a court order instructing it to disburse the Escrow Funds; or (iii) it files a suit in interpleader and deposits Escrow Funds with the court.

6. Independent Review

The Parties have made their own determination as to whether the language in this Instruction memorialize their own respective Agreement, are not usurious, and/or come under any consumer protection laws. McGovern Escrow Services, Inc. makes no representations or warranties with respect to the terms and conditions of the Agreement. The Parties further represent and warrant that each has received sufficient information, either through said party's own legal counsel or other sources of said party's own selection, so as to be able to make an intelligent and informed judgment whether to enter into the Agreement, along with this Escrow Instruction and Agreement. Each undersigned party further state that each has read the document(s) in their entirety prior to executing each such document, and that each has executed the documents voluntarily, with competence and capacity to contract and with the knowledge of the terms significance and legal effect of each such document.

7. The Asset Purchase Agreement

This Escrow Instruction is executed for the purpose of enabling the Escrow Agent to complete this transaction, but is in no way intended to modify, amend, supersede or in any way change the Asset Purchase Agreement, dated September __, 2017 and entered into prior to this Escrow Instruction and Agreement. Escrow Agent is not a party to and is not to be concerned with said Agreement or any matters contained therein, and is responsible only for such matters as are specifically set out in these instructions.

8. Invalidity Provision

Should any provision of this Agreement be found invalid, such invalidity shall not in any way affect the remaining provision of this Agreement.

9. Assignment

This Parties hereto shall not assign any of its rights or delegate any of this duties under this Agreement without prior written consent of the other party and any unauthorized assignment or delegation shall be void and of no effect.

10. Notices

All notices, requests, consents and other communications hereunder to any party pursuant to this Note will be deemed to be sufficient if contained in a written instrument delivered personally or mailed by certified or registered mail postage prepaid or sent electronically by confirmed email transmission, addressed as set forth below, or to such other address as may hereinafter be designated in writing by the recipient to the sender pursuant to this Section 10. Any such notice shall be effective (i) when personally delivered, (ii) one (1) business day after it has been deposited with a nationally-recognized overnight courier, duly addressed and postage prepaid, (iii) two (2) business days after it has been deposited in the United States mail, duly addressed and postage prepaid, or (iv) on the business day of confirmed transmission by facsimile or email. Any party may change such party's address for notice by written notice to the other parties pursuant to the provisions of this Section 10.

To Seller:

San Mateo Community College District
3401 CSM Drive
San Mateo, CA 94402
Attn: Executive Vice Chancellor
Email: blackwoodk@smccd.edu

To Buyer:

Rural California Broadcasting Corporation
5850 Labath Avenue
Rohnert Park, CA 94928
Attn: Nancy Dobbs, President and CEO
Email: nancy_dobbs@krbc.org

To McGovern Escrow Services, Inc:

Ms. Elizabeth McGovern
McGovern Escrow Services, Inc.
22 Battery Street, Suite 914
San Francisco, Ca 94111
Email: elizabeth@mcgovernescrow.com

11. Compensation

Funds for the payment of escrow fees and charges shall be exclusively paid by Buyer and Seller as described in the attached Escrow Fee schedule ("Exhibit A").

12. Amendment of Escrow

This Agreement may not be amended except in writing, executed by the Parties and the Escrow Agent. This Agreement may be executed in counterparts, each of which so executed shall be deemed an original, irrespective of the date of execution and delivery, and the counterparts shall constitute one and the same document.

13. Governing Law and Assignment

This Agreement shall be construed in accordance with and governed by the laws of the State of California and shall be binding upon the parties hereto and their respective successors, heirs, personal representatives and permitted assigns; provided, however, that any assignment or transfer by any party of its rights under this Agreement or with respect to the Escrow Funds shall be void as against the Escrow Agent unless (a) written notice thereof shall be given to the Escrow Agent; and (b) the Escrow Agent shall have consented in writing to such assignment or transfer.

14. Court Orders

Escrow Agent is hereby authorized, in its exclusive discretion, to obey and comply with all final and non-appealable writs, orders, judgments or decrees issued by any court or administrative agency affecting any money, documents or other assets or items held by Escrow Agent. Escrow Agent shall not be liable to any of the Parties hereto, their successors, heirs or personal representatives by reason of Escrow Agent's compliance with such writs, orders, judgments or decrees.

15. USA Patriot Act Notice

The Escrow Agent notifies the Parties hereto that pursuant to the requirements of the USA Patriot Act (Title II of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), the Escrow Agent is required to obtain, verify and record information that identifies the Parties to this Instruction and Agreement, which information includes the name and address of the Parties and other information that will allow Escrow Agent to identify them in accordance with the Act.

EXHIBIT A

Escrow Fee Agreement

In consideration for complying with the Escrow Instruction and Agreement dated September __, 2017, Pacific Retirement Services, Inc. agrees to pay all applicable fees to McGovern Escrow Services, Inc., as detailed below:

\$3,000.00	Escrow Set-Up and Documentation Fee (Due upon execution and delivery of the Escrow Instruction and Agreement)
25.00	Check disbursement fee per instrument
30.00	Wire transfer fee per event
150.00	Account reconciliation reports, as requested
350.00	Annual Maintenance Fee

Agreed and authorized by:

SELLER:
San Mateo County Community College District,
A California Community College District

BUYER:
Rural California Broadcasting Corporation
a California non-profit and nonstock
corporation

Signature: _____

Signature: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

EXHIBIT B

In accordance with this Escrow Instruction and Agreement dated September __, 2017, the names of the persons who are authorized to give written instructions on behalf of each of the Parties hereof, and exemplars of their respective signatures are as follows:

SELLER:

San Mateo County Community College District,
A California Community College District

Signature

Printed Name

Title

Signature

Printed Name

Title

Number of signatures required: _____

BUYER:

Rural California Broadcasting Corporation
a California non-profit and nonstock
corporation

Signature

Printed Name

Title

Signature

Printed Name

Title

Number of signatures required: _____

GENERAL PROVISIONS

1. **DEPOSITS.** All funds received in escrow shall be deposited with other escrow funds in a non-interest bearing general escrow account or accounts of McGovern Escrow Services, unless otherwise instructed in writing.
2. **OTHER AGREEMENTS.** Unless otherwise specifically provided herein in writing, Escrow Agent is not to be required to read, understand, interpret, or be concerned in any manner whatsoever with any conditional sales contract, purchase agreement, lease contract, security agreement, or other agreement, written or oral, of any kind whatsoever, and is not responsible for the delivery of any papers other than described herein. Escrow Agent is not a party to, or bound by any agreement which may be deposited under, evidenced by, or which may arise out of these instructions.
3. **AGENCY RESPONSIBILITIES.** Escrow Agent is to make no examination of the property being transferred herein or of the condition of or the title thereto. Escrow Agent acts as a depository only and is not responsible or liable in any manner whatever for sufficiency, correctness, genuineness or validity of any instrument deposited with it hereunder, or with respect to the form or execution of the same, or the identity, authority, or right of any person executing or depositing the same.
4. **DEFAULTS.** Escrow Agent shall not be required to take or be bound by notice of any default of any person, or take any action with respect to such default involving any expense or liability, unless notice in writing is given to the Escrow Agent at the address set forth above, of such default by the undersigned or any of them, and unless Escrow Agent is indemnified in a manner satisfactory to it against any and all expense and liability.
5. **NOTICES.** Escrow Agent shall be protected acting upon any notice, request, waiver, consent, receipt or other paper or document reasonably believed by Escrow Agent to be signed by the property party or parties.
6. **JUDGMENT.** Escrow Agent shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake or fact of law, or for anything which it may do or refrain from doing in connection herewith, except its own gross negligence or willful misconduct, and Escrow Agent shall have no duties to anyone except those signing these instructions.
7. **COUNSEL.** Escrow Agent may advise with legal counsel of its choice in the event of any dispute or question as to the construction of these instructions, or Escrow Agent's duties hereunder and Escrow Agent shall incur no liability and shall be fully protected in acting in accordance with the opinion and instructions of its counsel. Further, the parties hereto shall reimburse Escrow Agent for the costs, expenses and attorney's fees incurred by Escrow Agent for such advice and counsel. Escrow Agent is hereby authorized to deduct Seller and Buyer portion of such costs, expenses and attorneys fees from any funds held in escrow.
8. **DISAGREEMENTS.** In the event of any disagreement between the undersigned or any of them, and/or the persons named in these instructions, and/or any other person, resulting in adverse claims and demands being made in connection with or for any papers, money or property involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, as long as such disagreements shall continue, and in so doing Escrow Agent shall not be or become liable for damages or interest to the undersigned or any of them or to any person for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue to refrain and refuse to act until:
 - a.
 1. The rights of the adverse claimant had been finally adjudicated in a court assuming and having jurisdiction of the parties and the money, papers and property involved herein or affected hereby and/or
 2. All differences shall have been adjusted by agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.
 - b. Notwithstanding the foregoing, however, in the event of any such disagreement, Escrow Agent in its sole discretion may (a) file a suit in interpleader for the purpose of having the respective rights of the claimants adjudicated, and then deposit with the court all documents and property held hereunder, and the Parties agree to pay all costs and expenses incurred by Escrow Agent in such action, including attorneys fees, and such costs and expenses shall be included in the judgment in any such action or

(b) submit the matter to the American Arbitration Association, who will name a single arbitrator to conduct an arbitration in San Francisco, California to determine the respective rights of claimants in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All costs and expenses, including attorney's fees incurred with respect to the arbitration by Escrow Agent shall be paid by the Parties in equal proportions. The arbitration award shall be final and without appeal. A judgment upon the award may be entered in any court having jurisdiction of the parties.

9. **INDEMNITY.** In consideration of acceptance of this appointment by Escrow Agent, the Parties agree to defend, indemnify and hold Escrow Agent harmless as to any liability incurred by Escrow Agent to any person, firm or corporation by reason of its having accepted same or in carrying out any of the terms hereof, and to reimburse Escrow Agent for all its expenses, including among other things, counsel fees and court costs incurred by reason of its position or actions taken pursuant to these Escrow Instructions. Subject to Section 4 of the Agreement, the Principals hereby agree that the Escrow Agent shall not be liable to any of them for any action taken by Escrow Agent pursuant to and authorized by the terms hereof.
10. **COURT ORDERS.** Escrow Agent is hereby authorized in its exclusive discretion, to obey and comply with all writs, orders, judgments or decrees issued by any court or administrative agency affecting any money, documents or other securities or writings held by Escrow Agent. Escrow Agent shall not be liable to any of the parties hereto, their successors, heirs or personal representatives, by reason of Escrow Agent's compliance with such writs, orders, judgments or decrees. Notwithstanding such writ, order, judgment or decree is later reversed, modified, set aside or vacated.
11. **USURY.** Escrow Agent is not to be concerned with any question or usury in the processing of this escrow and Escrow Agent is hereby released of any responsibility or liability therefore.
12. **AMENDMENTS TO ESCROW INSTRUCTIONS.** These instructions shall not be subject to rescission or modification except by receipt by Escrow Agent at the address above of written instructions signed by all of the parties hereto or their successors in interest and no such modification shall be effective unless and until consented to in writing by Escrow Agent.
13. **SIGNATURES.** These instructions may be executed in counterparts, each of which so executed shall be deemed as an original, irrespective of the date of its execution and delivery; and such counterparts together with shall constitute one and the same instrument.
14. **COMPLETE AGREEMENT.** These instructions constitute the complete agreement between the Parties and Escrow Agent, with respect to the subject matters referred to in these instructions. These instructions supersede all prior contemporaneous negotiations, promises, covenants, agreements and representations of every nature whatsoever with respect to the subject matters referred to in these instructions, all of which have become merged and finally integrated into these instructions. Each of the parties understands that in the event of any subsequent litigation, controversy or dispute concerning any of the terms, conditions or provisions of these instructions, no party shall be permitted to offer or to introduce any oral evidence concerning any oral promises, agreements, representations or statements relating to the subject matters of these instructions not set forth herein in writing.
15. **SEVERABILITY.** In case any provision in these instructions shall be invalid, illegal or unenforceable, such provision shall be several from the remained of these instructions, and the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
16. **APPLICABLE LAW.** These instructions and the rights and obligations of the parties thereto shall be governed by the laws of the State of California.

- 17. **SURVIVAL OF REPRESENTATION.** All representations and warranties set forth herein shall survive the closing of escrow.
- 18. **BINDING OF SUCCESSORS.** The parties intend that these instructions will be binding upon and for the benefit of the parties hereto and their respective successors and assigns.

The Parties each hereby state that they have read the foregoing Escrow Instruction and Agreement, understand and agree to it, and acknowledge receipt of a copy of it.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of this ____ day of September, 2017.

SELLER:
 San Mateo County Community College District
 A California Community College District

BUYER:
 Rural California Broadcasting Corporation
 a Ca non-profit and nonstock corporation

Signature: _____

Signature: _____

Date: _____

Date: _____

McGovern Escrow Services, Inc. a California corporation

By: _____
 Elizabeth McGovern, President