

DONATION AGREEMENT

THIS DONATION AGREEMENT (this “Agreement”) is made as of April 8, 2015, between Saint Michael’s College, Inc., a Vermont non-profit corporation, d/b/a Saint Michael’s College (“SMC”) and Vermont Public Radio, a Vermont non-profit corporation (“VPR”).

Recitals

A. SMC is the licensee of FM station WWPV-FM, Colchester, Vermont, FCC Facility Id No. 58598 (the “Station”) pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”).

B. Pursuant to the terms and subject to the conditions set forth in this Agreement, SMC desires to donate to VPR, and VPR desires to accept from SMC, the Assets (defined below).

Agreement

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1: DONATION OF ASSETS

1.1. Assets. On the terms and subject to the conditions hereof, on the Effective Date (defined below), SMC intends to donate, assign, transfer, convey and deliver to VPR, and VPR intends to accept, assume and acquire from SMC, all right, title and interest of SMC in and to the following assets of SMC (collectively, the “Assets”):

(a) all licenses, permits and other authorizations issued to SMC by the FCC with respect to the Station and listed on *Schedule 1.1(a)* (the “FCC Licenses”), including any renewals or mutually-acceptable modifications thereof between the date hereof and the Effective Date;

(b) SMC’s equipment for the Station only to the extent listed on *Schedule 1.1(b)* (the “Tangible Personal Property”); and

(c) the Station’s public inspection file maintained by SMC pursuant to 47 C.F.R. Section 73.3527.

The Assets will be transferred to VPR free and clear of liens, claims and encumbrances (“Liens”) except for Assumed Obligations (defined in Section 1.3).

1.2. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the assignment of the Assets will not include the rights to the call letters “WWPV” (with or without a suffix such as “-FM”) or any assets or licenses owned or held by SMC relating to enterprises other than the Station, SMC’s charter documents and such other records as pertain to the organization and existence of SMC and duplicate copies of such

records as are necessary to enable SMC to file governmental reports as well as any other records or materials relating to SMC generally and not involving or relating to the Assets.

1.3. Assumption of Obligations. On the Effective Date, VPR will assume the obligations of SMC with respect to the Assets arising during, or attributable to, any period of time on or after the Effective Date (collectively, the “Assumed Obligations”).

1.4. Effective Date. The donation and acceptance of the Assets provided for in this Agreement are intended to take place on the date (the “Effective Date”) that is on or before the tenth (10th) business day after the date the FCC Consent has become a Final Order (as defined below), or on such day after the FCC Consent as SMC designates on no less than five (5) business days’ notice, subject to the satisfaction or waiver of the conditions set forth in Articles 3 or 4 below, provided that the Effective Date may be no later than August 11, 2015 (the “Outside Date”).

1.5. FCC Consent.

(a) Within seven (7) business days of the date of this Agreement, SMC and VPR will file an application with the FCC (the “FCC Application”) requesting FCC consent to the assignment of the FCC Licenses to VPR. 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.” SMC and VPR will diligently prosecute the FCC Application and otherwise use their reasonable efforts to obtain the FCC Consent and Final Order of the FCC Consent as soon as possible.

(b) SMC and VPR will notify each other of all documents filed with or received from any governmental agency with respect to this Agreement. SMC and VPR will furnish each other with such information and assistance as the other may reasonably request in connection with their preparation of any governmental filing hereunder.

(c) For purposes of this Agreement, the term “Final Order” means that action will 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 will be pending; and as to which the 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.

ARTICLE 2: REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1. Authorization. Each of SMC and VPR represents, warrants, and covenants that (a) it has the full right and legal authority to enter into and fully perform this Agreement in accordance with the terms and conditions hereof; and (b) the execution, delivery and performance of this Agreement does not and will not violate or cause a breach of any other agreements or obligations to which it is a party or by which it is bound.

2.2. FCC Licenses. SMC represents and warrants that SMC is the holder of the FCC Licenses for the Station described on *Schedule 1.1(a)*, which FCC Licenses are in full force and

effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired.

2.3. Ownership of Assets. SMC represents and warrants that SMC has good and marketable title to the Assets free and clear of Liens.

2.4. Qualification. VPR represents and warrants that VPR is legally, financially and otherwise qualified to be the licensee of the Station under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC.

2.5. SMC's Covenants.

(a) If requested by VPR, SMC will cooperate with VPR in the filing and prosecution of an application to the FCC for a construction permit for the modification of the Station contingent upon VPR's acquisition of the Station (a "Modification Application"), provided that VPR is responsible for the costs of preparing, filing and prosecuting such Modification Application.

(b) SMC will cooperate with VPR in VPR's request to the FCC to change the call sign of the Station contingent on the donation of the Station to VPR, such call sign change to be effective on the Effective Date.

2.6 VPR Covenants.

(a) Subject to the ultimate control and supervision of SMC, VPR will, at VPR's sole expense, obtain the necessary equipment for, and assist in the construction of the facilities authorized in, FCC Construction Permit Number BNPL-20131114AKS (the "LPFM Construction Permit") for low power FM Facility ID 196089 (the "LPFM Station"), and provide to SMC the necessary information for the completion of the license to cover application, so that SMC may initiate operations of the LPFM Station no later than August 11, 2015, with no additional out-of-pocket expenses incurred by SMC. VPR will reimburse SMC for its reasonable and necessary expenses relating to the foregoing, including without limitation, SMC's legal fees and engineering fees. Upon the Effective Date, the equipment so installed for the LPFM Station will become the sole property of SMC. VPR will also provide SMC with sufficient funds for SMC to develop iPhone and Android applications for the LPFM Station, provided such applications are developed within one year of the Effective Date, and VPR will provide SMC with sufficient funds for SMC to maintain such applications for a period of three years from the date such applications are available for download.

(b) Promptly following the submission of the Assignment Application, VPR will submit a request to the FCC for a change in the call sign of the Station to be effective on the Effective Date.

(c) In recognition of the donation of the Assets, following the Effective Date:
(i) VPR will make over-the-air announcements on the Station five (5) days per week for an period of three (3) operational years acknowledging that the broadcast service to the public has been made possible with the generous support of SMC; (ii) VPR will give due consideration to SMC students applying for internships and/or employment opportunities that may arise at VPR; and (iii) VPR will seek collaborative and synergistic opportunities with SMC, to the extent

desired by SMC, such as content sharing for the LPFM Station, venue hosting and joint artist appearances.

(d) In the event that, during the first ninety (90) days of operation pursuant to the LPFM Construction Permit, the LPFM Station is the subject of interference complaints by listeners of other authorized radio stations, VPR will use its best efforts to assist SMC, and reimburse SMC for all of its costs, in investigating and remediating such interference. If such interference issues cannot be resolved within sixty (60) days of their being brought to SMC's attention, then VPR will use its best efforts to assist SMC, and reimburse SMC for all of its costs, in obtaining as expeditiously as possible, subject to prior FCC approval, a full-power FM station to, as best as possible, replicate the service area of the LPFM Station (the "Replacement Station"), including, without limitation, the donation to SMC of a full-power station licensed to VPR and an interim program services operating agreement allowing SMC to provide programming services for the Replacement Station until the acquisition is finalized.

(e) If VPR must provide SMC with a Replacement Station, VPR's obligations under Section 2.6(c) will no longer be effective. With respect to the consummation of the donation of the Replacement Station, the conditions on the donation applicable to VPR in Article 4 will apply to SMC, and the conditions on the donation applicable to SMC in Sections 3.1 – 3.3 and 3.5 will apply to VPR so that each party stands in the place of the other with respect to the obligations of the donor and the donee in this Agreement, provided that VPR shall be solely responsible for the costs of the donation.

ARTICLE 3: SMC DONATION CONDITIONS

SMC's intent to make the donation hereunder is subject to satisfaction, at or prior to the Effective Date, of each of the following conditions (unless waived in writing by SMC):

3.1. Representations and Covenants. The representations and warranties of VPR made in this Agreement will be true and correct in all material respects as of the Effective Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by VPR at or prior to the Effective Date will have been complied with or performed in all material respects.

3.2. Proceedings. Neither SMC nor VPR will be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

3.3. FCC Consent. The FCC Consent pursuant to a Final Order will have been obtained.

3.4. LPFM Station. The facilities authorized by the LPFM Construction Permit shall have been constructed and the LPFM Station shall be ready for operation by SMC.

3.5. Deliveries. VPR will have complied with its obligations set forth in Section 5.2.

ARTICLE 4: VPR ACCEPTANCE CONDITIONS

VPR's intent to accept the donation hereunder is subject to satisfaction, at or prior to the Effective Date, of each of the following conditions (unless waived in writing by VPR):

4.1. Representations and Covenants. The representations and warranties of SMC made in this Agreement will be true and correct in all material respects as of the Effective Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by SMC at or prior to the Effective Date will have been complied with or performed in all material respects.

4.2. Proceedings. Neither SMC nor VPR will be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

4.3. FCC Consent. The FCC Consent will have been obtained.

4.4. Deliveries. SMC will have complied with its obligations set forth in Section 5.1.

ARTICLE 5: CLOSING DELIVERIES

5.1. SMC Documents. On the Effective Date, SMC will deliver or cause to be delivered to VPR:

- (i) an assignment of FCC authorizations assigning the FCC Licenses from SMC to VPR;
- (ii) a conveyance of the other Assets from SMC to VPR; and
- (iii) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Assets from SMC to VPR, free and clear of Liens.

5.2. VPR Documents. On the Effective Date, VPR will deliver or cause to be delivered to SMC:

- (i) an assumption of FCC authorizations assuming the FCC Licenses from SMC;
- (ii) title to the equipment installed for the LPFM Station; and
- (ii) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Assets from SMC to VPR, free and clear of Liens.

ARTICLE 6: TERMINATION

6.1. Termination. Subject to Section 6.2, this Agreement may be terminated prior to the Effective Date as follows:

- (a) by mutual written consent of SMC and VPR;
- (b) by written notice of VPR to SMC if SMC defaults in the performance of its covenants contained in this Agreement and such default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period (defined below);
- (c) by written notice of SMC to VPR if VPR defaults in the performance of its covenants contained in this Agreement and such default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period;
- (d) by written notice of SMC to VPR or VPR to SMC if the FCC Licenses for the Station or the LPFM Construction Permit are revoked or otherwise terminated by the FCC; or
- (e) by written notice of SMC to VPR or VPR to SMC if the Effective Date does not occur by the Outside Date.

6.2. Cure Period. Each party will give the other party prompt written notice upon learning of any default by the other party under this Agreement. The term "Cure Period" as used herein means a period commencing on the date VPR or SMC receives from the other written notice of default hereunder and continuing until the earlier of (i) ten (10) calendar days thereafter or (ii) the Effective Date determined under Section 1.4.

6.3. Survival. The termination of this Agreement will not relieve any party of any liability for default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Section 7.1 (Expenses) will survive any termination of this Agreement.

ARTICLE 7: MISCELLANEOUS

7.1. Expenses. VPR will be solely responsible for all costs and expenses incurred by SMC and VPR in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement, except that costs and expenses for the normal operations of the LPFM Station will be solely the responsibility of SMC following the donation on the Effective Date. VPR will be responsible for all fees and charges applicable to any requests for the FCC Consent. VPR will be responsible for any governmental taxes, fees and charges applicable to the transfer of the Assets under this Agreement.

7.2. Further Assurances. After the Effective Date, each party will from time to time, at the request of 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.

7.3. Assignment. Neither party may assign this Agreement without the prior written consent of the other party hereto, provided, however, that VPR may assign its rights hereunder to an affiliate of VPR upon written notice to, but without consent of, SMC, provided that (i) any such assignee delivers to SMC a written assumption of this Agreement, and (ii) VPR will remain liable for all of its obligations hereunder. The terms of this Agreement will bind and inure to the

benefit of the parties' respective successors and any permitted assigns, and no assignment will relieve any party of any obligation or liability under this Agreement.

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

if to SMC: Saint Michael's College
1 Winooski Park
Colchester VT 05439
Attention: William Anderson, Chief Information Officer

with a copy (which will not constitute notice) to: Repp Law Firm
1629 K Street, NW
Suite 300
Washington, DC 20006-1631
Attention: Marissa G. Repp, Esq.

if to VPR: Vermont Public Radio
365 Troy Avenue
Colchester, VT 05446
Attention: Brian Donahue, Vice President for Finance &
Operations - Chief Financial Officer

with a copy (which will not constitute notice) to: Garvey Schubert Barer
1000 Potomac Street, NW
Washington, DC 20007-3501
Attention: John Crigler, Esq.

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

7.6. 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, except any confidentiality agreement among the parties with respect to the Stations, which will remain in full force and effect. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

7.7. 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 will be construed with the invalid, illegal or unenforceable provision deleted and the validity, legality

and enforceability of the remaining provisions contained herein will not be affected or impaired thereby.

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

7.9. Governing Law. The construction and performance of this Agreement will be governed by the laws of the State of Vermont without giving effect to the choice of law provisions thereof.

7.10. 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. Delivery of an executed counterpart signature page to this Agreement by facsimile or e-mail will be deemed sufficient to render this Agreement effective.

[SIGNATURE PAGE FOLLOWS]

Schedule 1.1(a)

Federal Communications Commission FM Broadcast Station License, File Number BLED-19830204AB, Facility ID Number 58598, as renewed, File Number BRED-20131202BKE.

Schedule 1.1(b)

[Unneeded Equipment to Be Donated]

GSB:6970035.2