

## **APPLICATION DISMISSAL AGREEMENT**

**This Application Dismissal Agreement** (this "Agreement") is made and entered into as of this 23rd day of April 2007, by and between Pappas Telecasting Companies ("PTC"), a Nevada corporation, and John R. Powley ("Powley"), an individual residing in Altoona, Pennsylvania. Except as otherwise indicated, PTC and Powley are referred to hereinafter each as a "Party," and collectively, as "the Parties".

### **W I T N E S S E T H:**

**WHEREAS**, PTC has filed with the Federal Communications Commission (the "FCC") a short-form application in File No. BNPTTL-20000831APO for a construction permit for a new low power television station to operate on Channel 63 at South Sioux City, Nebraska (the "PTC Application"); and

**WHEREAS**, Powley has filed with the FCC a short-form application in File No. BNPTTL-20000831AQD for a construction permit for a new low power television station to operate on Channel 62 at Sioux City, Iowa (the "Powley 62 Application"), and Powley also has filed with the FCC a short-form application in File No. BNPTTL-20000831AQN for a construction permit for a new low power television station to operate on Channel 64 at Sioux City, Iowa (the "Powley 64 Application," and together with the Powley 62 Application, collectively, the "Powley Applications"); and

**WHEREAS**, the Commission has determined that the PTC Application and the Powley Applications are mutually-exclusive with each other; and

**WHEREAS**, pursuant to the FCC's *Public Notice* released February 22, 2007, DA 07-193, the FCC is permitting parties with mutually-exclusive applications until April 23, 2007 to reach agreements that would remove the mutual-exclusivities among and between their applications, so that long form applications may be filed and authorizations for the construction of the new stations that are the subjects of those long-form applications may be issued by the FCC and those new stations may be constructed at the earliest possible dates; and

**WHEREAS**, the Parties desire to remove the mutual-exclusivities between the PTC Application and the Powley Applications by dismissing the PTC Application, subject to the terms and conditions set forth herein; and

**WHEREAS**, neither Party has filed its application for the purpose of reaching or carrying out this Agreement or any other agreement that would result in the removal of the mutual exclusivities between the PTC Application and the Powley Applications.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. PTC and Powley, by their respective counsel, and as required by the FCC's rules, shall, not later than 6:00 P.M. Eastern Daylight Savings Time on April 23, 2007, join in filing with the FCC a motion (the "Joint Motion") requesting the FCC to approve this Agreement, to dismiss the PTC Application with prejudice, and to grant the Powley Applications. The Joint Motion shall be accompanied by a fully-executed copy of this Agreement and all of the supporting documentation required by the FCC's rules. PTC and Powley agree that they will file and prosecute the Joint Motion diligently and in good faith, including the timely submission of any information requested by the FCC in connection with the Joint Motion and the timely filing and vigorous prosecution of any pleadings responsive to any opposition to the Joint Motion that may be filed by any other party. PTC's dismissal of the PTC Application is conditioned upon the Commission issuing an order (or orders) granting the Joint Motion, approving this Agreement, dismissing the PTC Application with prejudice, granting the Powley Applications, and such order (or orders) becoming final, *i.e.*, no longer subject to administrative or judicial reconsideration, review, or appeal.

2. PTC hereby is granted an Option to purchase either the construction permit issued as a result of the grant of the Powley 62 Application, *or* the construction permit issued as a result of the grant of the Powley 64 Application. Within 30 days of each of the grants of the Powley 62 Application and the Powley 64 Application, PTC shall have the right to purchase either one (but not more than one) of such permits for the Purchase Price indicated below. Upon the exercise of such Option, within ten business days thereafter, PTC and Powley shall cooperate in the filing of an application (FCC Form 345) for assignment of such permit to PTC under the terms and conditions stated herein.

3. Within thirty (30) days of the date on which the FCC shall have consented to the assignment to PTC of such permit and such order (or orders) shall have become final, *i.e.*, no longer subject to administrative or judicial reconsideration, review, or appeal, Powley shall assign such permit to PTC, and PTC shall pay Powley the sum of Ten Thousand Dollars (\$10,000.00) for the purchase of such construction permit (the "Purchase Price").

4. The Parties understand and agree that the terms and conditions of this Agreement constitute the full and complete understanding, agreement, and arrangement entered into by and between the Parties with respect to the matters addressed herein, and that this Agreement completely supersedes and replaces any and all prior oral or written agreements or representations. This Agreement may be amended only by a written instrument duly executed by both Parties.

5. Each of the Parties represents and warrants to the other, which representations and warranties shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated herein, that: (i) such Party has full power and authority to execute, deliver, and perform its or his respective obligations under, this Agreement; (ii) the execution and delivery of, and the performance of its or his obligations under, this Agreement have been duly authorized by all requisite corporate action on the part of such Party, where applicable, and this Agreement is binding and enforceable against such Party in accordance with the terms hereof; (iii) the signatories to this Agreement have been authorized to execute and deliver this Agreement by each such Party, and each such Party has obtained all consents required by law (other than the FCC's approval of this Agreement) or by any organizational instrument or by any material agreement or instrument by which such Party and its officers, directors, and shareholders, as applicable, are bound, as applicable, in order to execute, deliver, and perform its or his respective obligations under this Agreement (including, but not limited to articles of incorporation, bylaws, and shareholder agreements); (iv) such Party's execution and delivery of, and the performance of its or his obligations under, and its or his compliance with, this Agreement will not conflict with, result in a breach of, or constitute or cause a default under, with or without the giving of notice or the passage of time, or both, any organizational instrument of such Party, as applicable, or any material agreement or instrument by which such Party and its officers, directors, and shareholders, are bound, nor will such execution, delivery, performance, or compliance conflict with or violate any statute, law, ordinance, rule, regulation, policy, procedure, order, decree, or judgment of any court or governmental authority which is binding upon either such Party or its officers, directors, or shareholders, as applicable, or its or his property; (v) no representation or warranty made by either such Party herein is materially inaccurate or materially incomplete; and (vi) such Party shall cooperate with the other Party, including but not limited to the execution and delivery of any certificate or instrument, or the taking or withholding of any action, as the case may be, that may reasonably be required in order to facilitate the implementation of this Agreement and the accomplishment of its objectives, and such Party will not take any action, nor suffer any action to be taken, nor fail to take any action, as the case may be, that would reasonably be required in order to facilitate the implementation of this Agreement and the accomplishment of its objectives.

6. Any notice or other communication required or permitted by this Agreement shall be in writing and shall be delivered in person or by first-class United States registered or certified mail, postage prepaid and return receipt requested, or by a nationally recognized overnight courier service, with delivery charges prepaid, to the Parties at the following addresses:

If to PTC:

Pappas Telecasting Companies  
500 South Chinowth Road

Visalia, California 93277

with a copy to

Michael Lazarus  
Paul, Hastings, Janofsky & Walker, LLP  
875 15th Street, N.W.  
Washington, D.C. 20005

If to Powley:

John R. Powley  
1007 N 4<sup>th</sup> St.  
Altoona, PA 16601

with a copy to

Dan J. Alpert  
The Law Office of Dan J. Alpert  
2120 North 21st Road  
Arlington, VA 22201

7. This Agreement shall be binding upon the Parties hereto, and their respective heirs, executors, personal representatives, successors, and assigns.

8. In the event that either of the Parties shall initiate an action in any court or before any agency in connection with this Agreement or any other matter arising hereunder, the prevailing Party, in addition to any other relief to which such prevailing Party may be entitled, shall be entitled to have its reasonable attorneys' fees and costs of litigation reimbursed by the non-prevailing Party. Except as provided in the preceding sentence, each of the Parties shall bear its or his own expenses in connection with the negotiation, execution, delivery, and performance of its or his obligation under, this Agreement.

9. The Parties acknowledge that the FCC authorizations for the stations described in the PTC Application and the Powley Applications are unique assets for which no readily available substitute may be obtained by the Parties in the open market, and that a failure on the part of any Party to perform its or his obligations under this Agreement would cause injury to the other Party that cannot accurately be quantified or compensated for by the award of monetary damages. Therefore, in addition to any other relief to which any Party may be entitled in equity, at law, by statute or regulation, or under contract, each Party shall be entitled to obtain from a court of competent jurisdiction a decree of specific performance of the obligations of the other Party under this Agreement, and each Party agrees not to interpose any objection to a request for such

a decree on the grounds that an adequate remedy at law may exist for such Party's failure to perform such obligations.

10. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**[the remainder of this page intentionally is left blank]**

**IN WITNESS WHEREOF**, the Parties, by their respective duly-authorized representatives, have executed this Agreement as of the date first written above.

**Pappas Telecasting Companies**

By: \_\_\_\_\_  
Name: Peter C. Pappas  
Title: Executive Vice President for Legal and Government  
Affairs

**John R. Powley**

John R. Powley

- 6 -

**IN WITNESS WHEREOF**, the Parties, by their respective duly-authorized representatives, have executed this Agreement as of the date first written above.

**Pappas Telecasting Companies**

By: 

Name: Peter C. Pappas

Title: Executive Vice President for Legal and Government  
Affairs

4/23/07

**John R. Powley**

\_\_\_\_\_