

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("*Agreement*") is entered into as of this 18 day of July, 2001, by and between Educational Media Foundation ("*EMF*") and Family Stations, Inc. ("*Family*") (EMF and Family may each be referred to individually as a "*Party*" and collectively, the "*Parties*").

WITNESSETH:

WHEREAS, EMF and Family each has pending before the Federal Communications Commission ("*FCC*") an application for a construction permit for a new noncommercial educational FM broadcast station to operate on Channel 203 (88.5 MHz) in Selma, California, and in Hanford, California, respectively (FCC File Nos. BPED-19971112MB and BPED-19971114MM; FIN #s 89071 and 89284) (the "*Selma Application*" and the "*Hanford Application*," respectively);

WHEREAS, EMF also has pending before the FCC an application for a construction permit for a new noncommercial educational FM broadcast station (the "*Pine Grove Station*") to operate on Channel 208 (89.5 MHz) in Pine Grove, Oregon (FCC File No. BPED-19970318MA; FIN #85834), and Family has pending before the FCC an application for a minor change in the licensed facilities of KJVH(FM), Longview, Washington (FCC File No. BPED-19970725ML; FIN #20734) (the "*Pine Grove Application*" and the "*Longview Application*," respectively; together with the Selma Application and the Hanford Application, collectively, the "*Applications*");

WHEREAS, the Selma and Hanford Applications are mutually exclusive with each other, and the Pine Grove and Longview Applications are mutually exclusive with each other, and, in each case, only one Application may be granted by the FCC;

WHEREAS, the Selma and Hanford Applications are mutually exclusive with the application of Lemoore Union High School District (the "*District*") for a construction permit for a new noncommercial educational FM broadcast station to operate on Channel 203 (88.5 MHz) in Lemoore, California (FCC File No. BPED-19970602MC) (the "*Lemoore Application*"), and EMF and the District have entered into a settlement agreement for the dismissal of the Lemoore Application;

WHEREAS, the Longview Application is mutually exclusive with the application of Mt. Hood Community College District (the "*College*") for a construction permit for a new noncommercial educational FM broadcast station to operate on Channel 206 (89.1 MHz) at Gresham, Oregon (FCC File No. BPED-19970625ME) (the "*Gresham Application*"), which will no longer be mutually exclusive with either the Pine Grove Application or the Longview Application upon dismissal of the Longview Application;

WHEREAS, Family has agreed to cause the voluntary dismissal with prejudice of the Hanford and Longview Applications in exchange for the consideration specified herein;

WHEREAS, dismissal of the Longview Application will permit the grant of EMF's Pine Grove Application and the Gresham Application; and

WHEREAS, the Parties believe that a settlement upon the terms set forth in this Agreement will serve the public interest in that it will resolve the pending proceedings before the Commission, and thereby speed the inauguration of new noncommercial educational FM service to Selma, California; Pine Grove, Oregon; and Gresham, Oregon.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, conditions, representations and warranties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties to this Agreement hereby agree as follows:

1. **Dismissal of Applications.** As soon as possible after the Effective Date, as defined below, but in no event later than July 19, 2001, Family shall request that the FCC dismiss the Hanford and Longview Applications with prejudice pursuant to and in connection with the filing of the Selma Joint Request and the Pine Grove Joint Request, as defined in Paragraph 3 below. The Effective Date shall be the date upon which the District executes a settlement agreement with EMF that, among other things, requires the dismissal of the Lemoore Application on terms and conditions that are consistent with the provisions of this Agreement. Notwithstanding any other provision of this Agreement, the covenants, obligations and liabilities of the Parties under this Agreement are expressly conditioned and contingent upon EMF reaching a settlement with the District for the dismissal of the Lemoore Application. In the event the Effective Date has not occurred on or before July 9, 2001, this Agreement shall be null and void, and neither EMF nor Family shall have any further obligation or liability to the other Party under this Agreement.

2. **Consideration.** In consideration of Family's dismissal of its Hanford and Longview Applications, EMF shall (i) file an application with the FCC for assignment to Family of the construction permit for the Pine Grove Station (the "*Pine Grove Assignment Application*") and (ii) pay to Family the sum of Thirty Thousand Dollars (\$30,000.00), both within five (5) days of the FCC taking "Final Action," as defined below, granting both the Selma and Pine Grove Applications.

3. **Requests for FCC Consent.** As soon as possible after the Effective Date, but in no event later than July 19, 2001, the Parties hereto shall file a Joint Request for Approval of Settlement Agreement (the "*Selma Joint Request*") in the form of Exhibit A hereto, as required by Section 73.3525 of the FCC's rules, requesting that the FCC issue an order or orders: (i) granting the Selma Joint Request; (ii) approving this Agreement; (iii) dismissing the Hanford Application; and (iv) granting the Selma Application. As soon as possible after the Effective Date, but in no event later than July 19, 2001, the Parties hereto shall file a Joint Request for Approval of Settlement Agreement (the "*Pine Grove Joint Request*") in the form of Exhibit B hereto, as required by Section 73.3525 of the FCC's rules, requesting that the FCC issue an order or orders: (i) granting the Pine Grove Joint Request; (ii) approving this Agreement; (iii) dismissing the Longview Application; and (iv) granting the Pine Grove Application. The Parties shall in good faith pursue approval by the FCC of these Joint Requests and shall cooperate fully

with each other and with the FCC and take whatever additional action is necessary or appropriate to obtain FCC approval of, and to effectuate, this Agreement. Neither Party shall take any action adverse to this Agreement or either of the Joint Requests; Family shall take no action adverse to the grant of EMF's Selma or Pine Grove Applications; and EMF shall take no action adverse to the grant of the Pine Grove Assignment Application. The Parties shall inform the FCC that the processing and approval of the Selma Joint Request and the Pine Grove Joint Request are mutually contingent and should be processed and granted jointly. In the event the FCC fails to grant the entire relief requested by the Parties in both Joint Requests, either Party may declare this Agreement null and void. If either EMF or Family elects to declare this Agreement null and void, neither EMF or Family shall have any further obligation or liability to the other Party under this Agreement, except that the Parties shall cooperate with each other in good faith to restore their respective FCC Applications to their existing status as of the date of this Agreement.

4. **Final Action.** The obligations of the Parties under this Agreement are expressly conditioned and contingent upon the FCC taking "Final Action" approving this Agreement in its entirety, dismissing Family's Hanford and Longview Applications with prejudice, and granting EMF's Selma and Pine Grove Applications. For purposes of this Agreement, an action by the FCC approving this Agreement, dismissing Family's Hanford and Longview Applications with prejudice, and granting EMF's Selma and Pine Grove Applications shall be a "Final Action" when the time for filing any requests for administrative or judicial review of such action, or for the FCC to reconsider such action on its own motion, has lapsed without any such filing or motion having been filed or, in the event of any such filing or motion, it shall have been disposed of in a manner so as not to affect the validity of the action taken and the time for seeking further administrative or judicial review with respect to the action shall have expired without any request for such further review having been filed.

5. **Pine Grove Assignment Application.** EMF represents to Family that to the best of its knowledge the Pine Grove Application is in compliance in all material respects with all applicable rules and regulations of the FCC, the Federal Aviation Administration or any other governmental regulations, and is not in conflict with or mutually exclusive with any licensed station or outstanding construction permit or pending FCC application other than the Longview Application. Upon grant of the Pine Grove Assignment Application by the FCC, EMF shall fully cooperate with Family in expeditiously assigning the permit to Family without any further consideration except as provided for in this Agreement, and all of EMF's rights, title and interests in the FCC construction permit for the Pine Grove Station shall be assigned to Family, or its assigns, free and clear of any liens, encumbrances, security interests or conditions, except for those routinely imposed by the FCC under its rules and regulations.

6. **Authorization and Binding Obligation.** The Parties hereto represent to one another that they each have the power and authority to enter into and carry out this Agreement and that this Agreement constitutes a valid and binding obligation of each of them in accordance with its terms.

7. **Notices.** All notices, requests, demands and other communications relating to this Agreement shall be in writing and shall be sent by first class, certified or registered mail, return

receipt requested, postage prepaid and, pending the designation of another address, addressed as follows:

If to EMF:

Educational Media Foundation
Attn: Richard Jenkins, President
1425 N. Market Boulevard
Sacramento, California 95834

With copy to:

David D. Oxenford, Esq.
Shaw Pittman
2300 N Street, NW
Washington, DC 20037-1128

If to Family:

Family Stations, Inc.
Attn: Peggy Renschler, Assistant Secretary
4135 Northgate Boulevard
Suite 1
Sacramento, California 95834

With copy to:

Alan C. Campbell, Esq.
Irwin Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue, NW
Suite 200
Washington, DC 20036-3101

8. **Entire Agreement.** Except as otherwise set forth herein, this Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof, and no other consideration, action or forbearance is contemplated or relied upon by them. This Agreement may not be amended or modified except by a writing signed by both Parties.

9. **Enforcement.** Should the Parties engage in litigation arising out of this Agreement, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees and costs as shall be determined by the court. The Parties recognize that this Agreement confers a unique benefit, the loss of which cannot be compensated for through monetary damages. Thus, in the event of a breach of this Agreement, including obligations relating to the filing, processing and closing on the Pine Grove Assignment Application, the Parties acknowledge that specific performance or other equitable relief would be an appropriate remedy, and agree to waive any defense that there is an adequate remedy at law for breach of this Agreement, and agree to waive

any requirement for the posting of bond or other security in order to seek equitable relief or specific performance.

10. **Assignment and Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their heirs, successors, executors, legal representatives and assigns, provided however that neither Party may voluntarily assign this Agreement without the express written consent of the other Party.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without application of conflicts of laws principles. The Parties agree to accept the jurisdiction of the courts of the State of California for the resolution of any disputes under this Agreement.

12. **Headings.** The headings herein are included for ease of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

13. **Counterparts.** This Agreement may be executed in one or more counterparts and shall be binding when it has been executed by each of the Parties. This Agreement shall be effective and legally binding upon delivery of facsimile signatures.

IN WITNESS WHEREOF, the Parties have executed this Agreement or have caused this Agreement to be executed on their behalf to be effective as of the date first set forth above.

EDUCATIONAL MEDIA FOUNDATION

By: 
Richard Jenkins
President

FAMILY STATIONS, INC.

By: _____
Its: _____

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EDUCATIONAL MEDIA FOUNDATION

By: _____
Richard Jenkins
President

FAMILY STATIONS, INC.

By: Irwin Campbell
Its: Pres

DECLARATION

EDUCATIONAL MEDIA FOUNDATION ("EMF"), hereby declares as follows:

1. EMF is an applicant for a new noncommercial educational FM radio station to operate on Channel 208 in Pine Grove, Oregon (FCC File No. BPED-19970318MA; FIN #85834).
2. EMF's application was not filed for the purpose of reaching or carrying out a settlement agreement.
3. Pursuant to the Settlement Agreement between EMF and Family Stations, Inc. ("Family"), EMF has agreed to (i) file an application with the FCC to assign to Family its Pine Grove construction permit in the event that the construction permit application is granted and (ii) pay Family \$30,000, both as consideration for Family's dismissal in a separate proceeding of its application for a new noncommercial educational FM station on Channel 203 in Hanford, California (FCC File No. BPED-19971114MM; FIN #89284). Neither EMF nor any of its principals has paid, received, promised, or been promised any other consideration in connection with the proposed settlement. Family is the licensee of KJVH(FM), Longview, Washington, and has agreed to dismiss its application for a minor change in the facilities of that station (FCC File No. BPED-19970725ML; FIN #20734) in order to permit the grant of the construction permit for EMF's Pine Grove proposal.
4. Approval of the Settlement Agreement between EMF and Family will serve the public interest by saving substantial time and resources of the parties and the FCC and by hastening the initiation of new noncommercial educational FM radio service to the Pine Grove, Oregon community. Approval of the Settlement Agreement will also benefit the public by permitting Mt. Hood Community College District's proposed upgrade of KMHD(FM), Gresham, Oregon (FCC File No. BPED-19970625ME), which application is mutually exclusive with Family's KJVH(FM) upgrade application.

18, I declare under penalty of perjury that the foregoing is true and correct. Executed on July 18, 2001.

EDUCATIONAL MEDIA FOUNDATION

By: _____



Richard Jenkins, President

DECLARATION

FAMILY STATIONS, INC. ("Family"), hereby declares as follows:

1. Family is the licensee of KJVH(FM), Longview, Washington, and the applicant for a minor change in the licensed facilities of the station (FCC File No. BPED-19970725ML; FIN #20734).
2. Family's application was not filed for the purpose of reaching or carrying out a settlement agreement.
3. Pursuant to the Settlement Agreement between Family and Educational Media Foundation ("EMF"), the mutually exclusive applicant for a new noncommercial educational FM station at Pine Grove, Oregon (FCC File No. BPED-19970318MA; FIN #85834), EMF has agreed to (i) file an application with the FCC to assign to Family its construction permit for the Pine Grove station in the event that the construction permit application is granted and (ii) pay Family \$30,000 as consideration Family's dismissal in a separate proceeding of its application for a new noncommercial educational FM station on Channel 203 in Hanford, California (FCC File No. BPED-19971114MM; FIN #89284). Family has agreed to dismiss its application for a minor change in the facilities of KJVH(FM) in order to permit the grant of the construction permit for EMF's Pine Grove station. Neither EMF nor any of its principals has promised or paid any other consideration to Family in connection with the proposed settlement.
4. Approval of the Settlement Agreement between Family and EMF will serve the public interest by saving substantial time and resources of the parties and the FCC and by hastening the initiation of new noncommercial educational FM radio service to the Pine Grove, Oregon community. Approval of the Settlement Agreements will also benefit the public by permitting Mt. Hood Community College District's proposed upgrade of KMHD(FM), Gresham, Oregon (FCC File No. BPED-19970625ME), which application is mutually exclusive with Family's KJVH(FM) upgrade application.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 16, 2001.

FAMILY STATIONS, INC.

By: Peggy L. Kessler
Its: Assistant Secretary