

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is entered into this 15th day of January, 2016 (the "Effective Date"), by and between CITY OF MORRO BAY, CA, a California governmental entity ("Assignor"), and ESTERO BAY COMMUNITY RADIO, a California not-for-profit corporation ("Assignee").

RECITALS:

WHEREAS, Assignor holds a License issued by the Federal Communications Commission ("FCC" or "Commission") for a Low Power FM station on Channel 247 at Morro Bay, CA (the "Station"), FCC Facility ID No. 190768 - File No. BLL-20140410AAU (the "License"), a true and correct copy is attached here to as Exhibit "A"; and

WHEREAS, subject to FCC consent, Assignor desires to assign the license relating to the Station to Assignee, and Assignee desires to receive such licensee from Assignor.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises, representations, and covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Assignment of FCC Authorizations. Subject to the terms and conditions set forth in this Agreement, Assignor agrees to convey, transfer, and assign to Assignee at the Closing (defined below) all right, title, and interest of Assignor in and to the License, with respect to the Station (the "FCC Authorization").
2. Consideration. The FCC License is being assigned for the sum of One Dollar (\$1.00) by Assignor to Assignee at the Closing for Assignee to operate the Station as a noncommercial, educational station.
3. The agreement titled "Management Agreement" dated August 11, 2012 is hereby terminated as of the date of execution by both parties.
4. Assumption of Obligations. Subject to the terms and conditions hereof, on the Closing Date (defined below), Assignee shall assume all liabilities, obligations, and commitments of Assignor arising before the Closing Date (defined below) with respect to the FCC Authorization.
5. FCC Consent. On or about March 15, 2017, the parties shall file an application (the "FCC Application") to seek the FCC's consent to the assignment of the FCC Authorization for the Station (the "FCC Consent"). Assignee shall be responsible for all costs relating to the preparation of the FCC Application. Assignor and Assignee will cooperate with each other in seeking the FCC Consent for the transaction contemplated herein.

6. Closing. Within five (5) business days after the FCC Consent becomes a final order, no longer subject to appeal or review, the parties shall consummate the transaction contemplated herein at a closing (the "Closing" or "Closing Date"); provided, however, that Assignee, in its sole discretion, may consummate the transaction on grant of the FCC Consent prior to finality. At the Closing, Assignor shall deliver to Assignee written approval of an assignment of FCC License as issued by the FCC.

7. Condition Precedent to Closing. The parties acknowledge and agree tthe FCC Consent to the assignment of the FCC License for the Station from Assignor to Assignee is a condition precedent to the Closing.

8. Application for FCC Approval

a. Filing and Prosecution of Application. Assignee and Assignor shall, not later than five (5) business days after the Effective Date, file with the FCC an application requesting its written consent to the assignment of the construction permit of the Station from Assignor to Assignee. Assignee and Assignor shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of such application to a favorable conclusion, using their best efforts throughout.

b. Expenses. Assignee and Assignor shall pay all of their own expenses in connection with the preparation of the applicable sections of the FCC application and in connection with the prosecution of such application. All FCC filing fees shall be paid by Assignee.

c. Designation of Hearing. If, for any reason, with respect to any application for assignment of the Licenses or Permits, the staff of the FCC advises designation for hearing will be required, then either party, shall have the right, by written notice within sixty (60) days after such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder.

9. Representations and Warranties.

a. Assignor and Assignee each expressly represents and warrants to the other each party has the full power and authority to enter into and execute this Agreement.

b. Assignor and Assignee each expressly represents and warrants to the other, subject only to the FCC Consent, there is no constraint upon either party's legal ability to perform its obligations hereunder.

c. Assignee expressly represents and warrants to Assignor it is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act of 1934, as amended, and under the rule and policies of the FCC ("Communications Laws"). To Assignee's knowledge, there are no facts that would, under applicable law and the Communications Laws, disqualify Assignee as an assignee of the FCC License or as the owner and operator of the Station.

10. Termination. This Agreement may be terminated at any time prior to the Closing as follows:

- a. by mutual written consent of the parties;
- b. by written notice from a party that is not then in material breach of this Agreement if the other party has failed to cure its material breach of any of its representations, warranties, or covenants under this Agreement within thirty (30) days after receipt of written notice of such breach from the party not in material breach; or
- c. by written notice of a party to the other party, if the Closing has not occurred by April 16, 2018; provided, however, that if the Closing has not occurred because the FCC Consent has not been granted, then this Agreement may not be terminated by a party who materially contributed to the delay in the issuance of the FCC Consent.

11. Effect of Termination.

- a. If this Agreement is terminated by the parties pursuant to Section 9.a or Section 9.c, or the condition precedent detailed at Section 6 is not met, then neither party shall have any further liability to the other and this Agreement shall be deemed null and void with no further force and effect.
- b. If this Agreement is terminated by a party pursuant to Section 9.b, then the terminating party shall have all rights to pursue any remedy available to it for the other party's breach.

12. Assumption of Liabilities. Assignee shall assume and shall be obligated to pay any and all liabilities or obligations of Assignor related to the Station as may exist as of the Closing Date. At the Closing, Assignor will provide Assignee with a list of all such obligations and liabilities. Upon assumption, by Assignee of the assigned contracts, Assignee shall be entitled to all of Assignor's rights and benefits thereunder and shall relieve Assignor of its obligations to perform the same after the Closing Date.

13. No Conflict. Neither the execution and delivery of this Agreement by Assignee, nor compliance by Assignee with any of the provisions hereof, nor the consummation of the transactions contemplated hereby will:

- a. conflict with or result in a breach of any provision of the governing documents of any entity named as Assignee herein, or
- b. result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Assignee is a party or by which it or any of its properties or assets may be bound.

14. Indemnification. To the full extent provided by law, Assignee agrees to indemnify, defend and hold harmless the Assignor, its officers, employees and agents against, any and all actions, suits,

claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Assignee, its officers, agents, employees, agents, subcontractors, or invitees, provided for herein ("indemnitors"), or arising from Assignee's indemnitors' negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, except claims or liabilities to the extent caused by the sole negligence or willful misconduct of the Assignee.

15. Miscellaneous.

a. Notices. Any notice, request, demand or other communication required or permitted under this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery, confirmed facsimile transmission, confirmed delivery by a **nationally** recognized overnight courier service, or on the third (3rd) day after prepaid mailing by certified U.S. mail, return receipt requested, and shall be address as follows (or to such other address as any party may request by written notice):

If to Assignor:

City of Morro Bay
City Hall
585 Harbor Street
Morro Bay, CA 93442

If to Assignee:

Estero Bay Community Radio
695 Harbor Street
Morro Bay, CA 93442

b. Survival of Representations, Warranties, and Covenants. The representations, warranties, and covenants contained in this Agreement shall be deemed to be material and relied upon by the party to which they are made, and, unless otherwise specified, shall survive the execution, delivery, and performance of this Agreement, and the consummation of the transaction contemplated herein.

c. Assignment and Binding Effect. Neither party may assign its rights or obligations under this Agreement without prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

d. Entire Agreement. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof. This Agreement supersedes

all prior negotiation, memoranda, and agreements between the parties with respect to the subject matter hereof, and may not be altered, changed, modified, or amended except by a written instrument duly signed by each of the parties hereto.

e. No Waiver. No provision or condition of this Agreement shall be waived by either party hereto except by a written instrument delivered to the other party and duly signed by the party consenting to and to be charged with such waiver.

f. Construction. This Agreement shall be construed in accordance with the internal laws of the State of California, and the obligations of the parties hereto are subject to all federal, state and local laws and regulations and FCC's Rules now or hereafter in force.

g. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

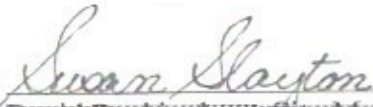
h. Expenses. Except as otherwise provided herein, each party shall be solely responsible for all fees and expenses each party incurs in connection with the transaction contemplated by the Agreement, including, without limitation, legal fees incurred in connection herewith.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

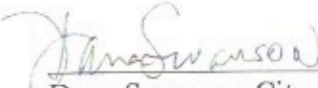
[SIGNATURES ON NEXT PAGE]

ASSIGNOR:


CITY OF MORRO BAY


~~Dana Swanson, City Manager~~
Susan Slayton, Acting City Manager

ATTEST:

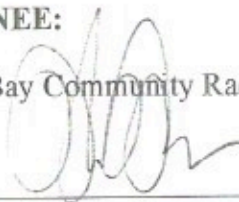

Dana Swanson, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP



Joseph W. Pannone, City Attorney

ASSIGNEE:

Estero Bay Community Radio

By: 
Name:
Title: PRESIDENT

Estero Bay Community Radio

By: 
Name:
Title: TREASURER