

## **PURCHASE AGREEMENT**

This PURCHASE AGREEMENT (this “Agreement”) is dated as of the 9th day of July, 2012, by and between Alaska Federation for Community Self Reliance (“Seller”) and Athabascan Fiddlers Association (“Buyer”) (each, a “Party”, and collectively, the “Parties”).

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

WHEREAS, Seller is the permittee of Station KRFF, a new noncommercial educational radio station on Channel 206 at Fairbanks, Alaska, FCC Facility Identification Number 173890 (the “Station”), pursuant to a construction permit authorization issued by the Federal Communications Commission (the “FCC”) in FCC File No. BNPED-20071018AVG (the “FCC Authorization”);

WHEREAS, the FCC Authorization for the Station has an expiration date of August 16, 2013; and

WHEREAS, Seller desires to sell, transfer, assign and deliver to Buyer, and Buyer desires to acquire from Seller, the FCC Authorization for the Station.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Sale of FCC Authorization. On the Closing Date (as hereinafter defined in Section 4), Seller agrees to sell, transfer, assign and deliver to Buyer, and Buyer agrees to purchase and assume, all of the right, title and interest of Seller in and to (a) the FCC Authorization, as set forth in Schedule 1, and (b) the Station’s records and files as required to be kept by the FCC (the “FCC Records”).

2. Consideration. The parties acknowledge that their respective undertakings and commitments herein, designed to ensure the provision of noncommercial educational radio programming that includes locally-focused programming on the Station, constitute sufficient consideration for this Agreement.

3. FCC Consent; Assignment Application. It is specifically understood and agreed by Seller and Buyer that the assignment of the FCC Authorization from Seller to Buyer is subject to the prior consent of the FCC (the “FCC Approval”). The parties agree to proceed as expeditiously as practical to prepare an assignment application for FCC Approval (*i.e.*, FCC Form 314) along with all required FCC showing (the “FCC Assignment Application”) and to file said FCC Assignment Application with the FCC not later than ten (10) business days after the date of this Agreement. The parties agree that the FCC Assignment Application will be prosecuted in good faith and with due diligence.

4. Closing Date. The closing of the transactions (the “Closing”) contemplated by this Agreement shall occur on a date (the “Closing Date”) mutually agreed upon by Buyer and

Seller and no later than twenty (20) days after the FCC Approval becomes a Final Order, provided the conditions specified in this Agreement shall have been met (other than those conditions that by their terms are to be satisfied at the Closing, it being understood that the Closing shall be subject to the satisfaction or waiver of those conditions at such time). For purposes of this Agreement, "Final Order" means an action by the FCC that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which no requests are pending for administrative or judicial review, reconsideration, appeal, or stay, and the time for filing any such requests and the time for the FCC to set aside the action on its own motion have expired. Buyer and Seller may agree to waive the Final Order requirement. The Closing will take place by the exchange of documents by email or at such other location and method as Buyer and Seller may select by mutual agreement.

5. Seller's Representations and Warranties. Seller represents, warrants, and covenants to Buyer on the date hereof and on the Closing Date as follows:

a. Organization and Standing. Seller is a legally formed and constituted non-profit corporation, in good standing under the laws of the State of Alaska, possesses all corporate power necessary to own and operate the Station and to carry out the provisions of this Agreement and has the authority to convey the FCC Authorization.

b. Authorization and Binding Obligation. Seller has obtained the approval of its Board of Directors or other entities required for authorization of this Agreement and any other approvals required by statute, regulation or as otherwise required by law. The execution, delivery, and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller.

c. Current and Valid FCC Authorizations. Seller on the Closing Date will hold current and valid authorization(s) from the FCC which are necessary for Seller to construct and own the Station. No action or proceeding is pending or, to the knowledge of the Seller, threatened, or on the Closing Date will be threatened or pending, before the FCC or other governmental or judicial body, for the cancellation, or adverse modification, of the Station Authorization.

d. Compliance. Except for any non-compliance which would not materially and adversely affect the FCC Authorization or the Station (i) Seller is in compliance with FCC rules and regulations, and otherwise in compliance with all applicable local, state, and Federal laws; (ii) Seller has filed all tax returns, FCC reports and other documents required to be filed by any governmental authority with respect to the FCC Authorization or the Station; and (iii) Seller has maintained its local public inspection file in material compliance with FCC requirements.

e. Absence of Conflicting Agreements. Seller represents that there are no outstanding agreements or understandings for the sale of the FCC Authorization. Subject to obtaining FCC Approval, the execution, delivery, and performance by Seller of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with the organizational documents of the Seller; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality

applicable to Seller; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Seller is a party or by which Seller may be bound.

f. Claims and Litigation. There is no judgment outstanding or any claim, or litigation or proceeding pending or, to the Seller's knowledge, threatened which affects the interest of Seller to or in the FCC Authorization being assigned to Buyer, or which would prevent or adversely affect Buyer's ownership of the FCC Authorization or ability to construct a noncommercial station in accordance with the terms of the FCC Authorization.

g. Disclosure. No representation or warranty made by Seller in this Agreement, or any statement or certificate furnished by, or to be furnished by, Seller to Buyer pursuant hereto, or in connection with the transaction contemplated hereby, contains, or will contain, any untrue statement of a material fact, or omits, or will omit, to state a material fact necessary to make the statements contained therein not misleading.

6. Buyer's Representations and Warranties. Buyer represents, warrants, and covenants on the date hereof and on the Closing Date as follows:

a. Organization and Standing. Buyer is a legally formed and constituted non-profit corporation, in good standing under the laws of the State of Alaska, possesses all corporate power necessary to own and operate Station and to carry out the provisions of this Agreement and has or will have the authority and financial capability to acquire the FCC Authorization.

b. Binding Obligation. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

c. Absence of Conflicting Agreements. Subject to obtaining FCC Approval, the execution, delivery, and performance by Buyer of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with the Buyer's governing documents; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality applicable to Buyer; (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Buyer is a party or by which Buyer may be bound.

d. Buyer's Qualifications. Buyer is legally, financially and otherwise qualified to acquire the FCC Authorization and to own and operate the Station under the Communications Act of 1934, as amended, and the rules, regulations, and policies of the FCC. Buyer knows of no fact that would, under existing law and the existing rules, regulations,

policies and procedures of the FCC disqualify Buyer as assignee of the FCC Authorization or as the owner and operator of the Station.

e. Disclosure. No representation or warranty made by Buyer in this Agreement, or any statement or certificate furnished by, or to be furnished by, the Buyer to Seller pursuant hereto, or in connection with the transactions contemplated hereby contains, or will contain, any untrue statement of a material fact or omits, or will omit, to state a material fact necessary to make the statement contained therein not misleading.

7. Expenses. Buyer and Seller shall bear their respective costs and expenses for brokers, attorneys, accountants, and advisors retained by or representing them in connection with the negotiation and execution of this Agreement and its Closing. Seller shall pay any and all taxes required by Seller to pay as a result of the transaction.

8. Modification of Permit; Call Sign. Seller and Buyer expressly acknowledge and agree that Buyer may seek to modify the FCC Authorization to specify operation from a different transmitter site. Seller agrees that Buyer may prepare, at its own expense, an FCC Form 340 minor modification of construction permit application (the "Modification Application") for the Station to be filed prior to Closing and/or prior to grant of the FCC Assignment Application. Buyer and Seller agree that time is of the essence with regard to such Modification Application due to the expiration date for the FCC Authorization as set forth in Schedule 1 to this Agreement. Seller therefore agrees to reasonably assist Buyer in the filing of such Modification Application, including, but not limited to, providing a written consent for Buyer to file such Modification Application in Buyer's name prior to Closing, pursuant to Section 73.3517 of the FCC's Rules, or by completing the submission of such Modification Application in Seller's name. Any associated fees or costs incurred by Seller relating to the Modification Application, including but not limited to engineering and legal fees in connection with the review, completion and submission of the Modification Application, shall be borne exclusively by Buyer. Seller shall also cooperate with Buyer to take any and all actions, and make any and all filings with the FCC, reasonably required to reserve for the Station an available call sign selected by Buyer, such change to be effective at or prior to Closing. The parties agree to proceed as expeditiously as practical to file said call sign reservation with the FCC not later than three (3) business days after the submission of the FCC Assignment Application.

9. Indemnification by Seller. Seller shall indemnify and hold harmless Buyer and any of Buyer's officers, trustees, employees, agents, successors, and permitted assigns against and in respect of any and all liabilities, obligations, claims, and demands (including reasonable attorney's fees) (hereinafter collectively "Claims") arising out of or related to (i) Seller's status as the permittee of the Station prior to Closing (including, but not limited to, Claims related to compliance with FCC rules and regulations); (ii) any breach by Seller of this Agreement; and (iii) any inaccuracy in or breach of any representation, warranty, or covenant made by Seller herein.

10. Indemnification by Buyer. Buyer shall indemnify and hold harmless Seller and any of Seller's officers, trustees, employees, agents, successors, and permitted assigns against and in respect of any and all liabilities, obligations, claims, and demands (including reasonable attorney's fees) (hereinafter collectively "Claims") arising out of or related to (i) Buyer's

operation and/or ownership of the Station and/or FCC Authorization after Closing (including, but not limited to, Claims related to compliance with FCC rules and regulations); (ii) any breach by Buyer of this Agreement; and (iii) any inaccuracy in or breach of any representation, warranty, or covenant made by Buyer herein.

11. Conditions Precedent to Buyer's Obligation to Close. Buyer shall not be obligated to close under this Agreement unless and until the following conditions have been met, or have been waived by Buyer:

- a. The FCC Approval shall have been granted by Final Order, and Seller shall have complied with any conditions imposed on it by the FCC Approval in accordance with this Agreement.
- b. Seller shall have performed and complied with all the agreements, obligations, and conditions required by this Agreement to be performed or complied with by it in all material respects, prior to or as of the Closing Date.
- c. Seller shall hold a valid, current, and unexpired FCC Authorization for the Station.
- d. Buyer shall have entered into a site lease agreement in a form and substance reasonably satisfactory to Buyer with respect to the real property to be used by Buyer in connection with the operation of Station.
- e. The FCC shall have granted the Modification Application in a form and substance reasonably satisfactory to Buyer.
- f. The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date.
- g. No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Buyer from consummating the transactions contemplated by this Agreement.

12. Conditions Precedent to Seller's Obligation to Close. Seller shall not be obligated to close under this Agreement unless and until the following conditions precedent have been met, or have been waived by Seller:

- a. The FCC Approval shall have been granted, and Buyer shall have complied with any conditions imposed on it by the FCC Approval in accordance with this Agreement.
- b. Buyer shall have performed and complied with all the agreements, obligations, and conditions required by this Agreement to be performed or complied with by it in all material respects, prior to or at the Closing Date.

c. The representations and warranties of Buyer as set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date.

d. No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Seller from consummating the transactions contemplated by this Agreement.

13. Closing Deliveries. At the Closing, the parties shall deliver to each other such documents, instruments and agreements as either party shall request and as shall be reasonably necessary to consummate the transactions contemplated by this Agreement, each in form and substance reasonably satisfactory to counsel for the requesting party.

14. Survival of Warranties. All representations, warranties, and covenants made by the parties in this Agreement shall be deemed made for the purpose of inducing the other to enter into this Agreement and shall survive the Closing and remain operative in full force and effect (and shall not be deemed merged into any document or instrument executed or delivered at the Closing) after the Closing.

15. No Assignment. This Agreement may not be assigned by either party without the other party's prior written consent.

16. Specific Performance. The parties recognize the uniqueness of the Station and the FCC Authorization, the possible expiry of the FCC Authorization, and attributes that are associated with the Station's operation, and for that reason agree that both Buyer and Seller shall have the right to specific performance of this Agreement upon default of either Party. Either Party shall therefore be entitled to obtain specific performance of the terms of this Agreement. EACH PARTY HEREBY WAIVES THE DEFENSE IN SUCH SUIT THAT IT HAS AN ADEQUATE REMEDY AT LAW AND AGREES NOT TO INTERPOSE ANY OPPOSITION, LEGAL OR OTHERWISE, AS TO THE PROPRIETY OF SPECIFIC PERFORMANCE AS A REMEDY.

17. Termination.

a. Termination by Seller. This Agreement may be terminated by Seller and the purchase and sale of the FCC Authorization abandoned, if Seller is not then in material default, upon written notice to Buyer, upon the occurrence of any of the following:

(i) Conditions. If, on the date that would otherwise be the Closing Date, any of the conditions precedent to the obligations of Seller set forth in this Agreement have not been satisfied or waived in writing by Seller.

(ii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order, not caused by Seller, that would prevent or make unlawful the Closing.

b. Termination by Buyer. This Agreement may be terminated by Buyer and the purchase and sale of the Station abandoned, if Buyer is not then in material default, upon written notice to Seller, upon the occurrence of any of the following:

(i) Conditions. If, on the date that would otherwise be the Closing Date, any of the conditions precedent to the obligations of Buyer set forth in this Agreement have not been satisfied or waived in writing by Buyer.

(ii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order, not caused by Buyer, that would prevent or make unlawful the Closing.

(ii) Convenience. For Buyer's convenience, upon fifteen (15) days prior notice to Seller.

c. Termination by Either Party; Upset Date. This Agreement may be terminated by either Party, if the terminating Party is not then in material default, upon written notice, if the Closing shall not have occurred by June 1, 2013.

18. Notices. Any notice, request, demand, or consent required or permitted to be given under this Agreement shall be in writing and shall be effective when transmitted and confirmation of receipt is obtained for facsimile transmissions; when delivered personally; one (1) business day after sent by recognized overnight courier; and five (5) calendar days after sent by mail, first class, postage prepaid; in each case to the following address, as applicable:

If to Seller:

Alaska Federation for Community Self Reliance  
PO Box 73488  
Fairbanks, Alaska 99707-3488  
Tel: (907) 474-0902  
Attn: Dick Farris  
Email: [akfedcsr@yahoo.com](mailto:akfedcsr@yahoo.com)

with a copy to:

John Crigler, Esq.  
Garvey, Schubert Barer  
5<sup>th</sup> Floor, Flour Mill Building  
1000 Potomac Street, N.W.  
Washington, DC 20007-3501  
Telephone: 202-298-2521  
Email: [jcrigler@gsblaw.com](mailto:jcrigler@gsblaw.com)

If to Buyer:

Dolores Ann Fears  
Athabascan Fiddlers Association  
1870 Alaska Way  
Fairbanks, Alaska  
Email: annfears@hotmail.com

with a copy to:

Margaret L. Miller, Esq.  
Dow Lohnes PLLC  
1200 New Hampshire Avenue, Suite 800  
Washington, DC 20036  
Telephone: 202-776-2914  
Email: mmiller@dowlohn.com

or at such other address as either party shall specify by notice to the other.

19. Further Assurances. Each of the parties hereto shall execute and deliver to the other party hereto such other instruments as may be reasonably required in connection with the performance of this Agreement.

20. No Inconsistent Actions. Neither the Seller nor the Buyer shall take any action which is materially inconsistent with its obligations under this Agreement.

21. Broker: The Seller and Buyer agree that no broker was involved in this transaction.

23. Construction. This Agreement shall be construed and enforced in accordance with the laws of the State of Alaska. The headings are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

24. Entire Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to the sale and purchase of the FCC Authorization to be sold and purchased hereunder and may not be changed or terminated orally, and no attempted change, termination, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties.

25. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one agreement. This Agreement may be signed and exchanged by facsimile or email (PDF) transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

*[signature page follows]*



*Signature page to Purchase Agreement  
for new noncommercial educational radio station authorization, Fairbanks, Alaska*

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

**SELLER:**

**Alaska Federation for Community Self Reliance**

By: *Richard Harris*

Name:

Title: *SECRETARY/TREASURER*

**BUYER:**

**Athabascan Fiddlers Association**

By: *Debra A. Evans*

Name:

Title: *DIRECTOR, ATHABASCAN FIDDLERS ASSOC.*

**SCHEDULE 1**

**FCC Authorization**

<u>Station Call Sign</u>	<u>Facility ID Number</u>	<u>Location</u>	<u>File Number</u>	<u>Expiration Date</u>
KRFF	173890	Fairbanks, AK	BNPED-20071018AVG*	08/16/2013

\*including any modifications of construction permit filed after execution of this Agreement