

## **ASSET PURCHASE AGREEMENT**

This Asset Purchase Agreement (the "Agreement") is made this \_\_\_\_\_ day of September 2001, by and between Johanna Broadcasting, Inc. ("Seller") and Roseburg Broadcasting, Inc. ("Buyer").

WITNESSETH:

WHEREAS, Seller is the holder of a license (the "License") issued by the Federal Communications Commission (the "FCC") for a new commercial television station BLCT-19940726KG, Channel 36, Roseburg, Oregon, Facility ID 31437 (the "Station"); and

WHEREAS, in accordance with applicable FCC requirements, Seller wishes to sell and assign the License to Buyer and Buyer wishes to buy and acquire the License from Seller;

NOW THEREFORE, in consideration of the foregoing and of the mutual agreements and covenants contained herein, the parties, intending to be legally bound, agree as follows:

1. **Purchase and Sale of Assets.** Subject to the terms and conditions set forth below, Seller agrees to assign, sell and transfer to Buyer, and Buyer agrees to purchase from Seller, the following assets, all of which Seller agrees are now, and on the Transfer Date (as defined) shall be, free and clear of any and all liens, claims, petitions, charges and encumbrances of any nature whatsoever ("Liens"):

(a) the License and any and all other FCC authorizations pertaining to the Station;

(b) any and all pending applications before the FCC which relate to the Station or the License;

(c) the Local Public Inspection File of Seller and all other books and records relating to the License or the Station;

(d) all of Seller's proprietary information, technical information, demographic and market data, coverage maps, diagrams and the like which relate to the License or to the future business of the Station;

(e) all of the Seller's leases, land purchase contracts, tower registrations, tower permits relating to the Station, attached as Schedule 1(e); and,

(f) all of the Seller's supplies, equipment, inventories and other property purchased but not installed, as more fully described in Schedule 1(f) hereto.

Hereafter, all such assets shall be referred to as the "Station Assets." In connection with the purchase of Station Assets, Buyer shall assume no liabilities other than those listed in Schedule 3.6 hereto.

## **2. Purchase Price and Payment.**

2.1 **Purchase Price and Payment.** The purchase price for the Station Assets shall be Eight Hundred Thousand Dollars (\$800,000). The Purchase Price shall be paid by Buyer to Seller at Closing by wire transfer of same-day funds pursuant to wire instructions delivered by Seller to Buyer at least two (2) business days prior to the Closing Date.

2.2 **Escrow Deposit.** Buyer and Seller have executed an Escrow Agreement dated as of the date of this Agreement attached hereto as Exhibit A, whereby Buyer has deposited the sum of Eighty Thousand Dollars (\$80,000.00) (the "Escrow Deposit") in cash or bank letter of credit with the Escrow Agent as security for Buyer's performance under this Agreement. The deposit will bear interest to accrue in the favor of Buyer and the Escrow Deposit plus accrued interest shall be promptly returned to Buyer if the sale fails to be consummated. At Closing,

Escrow Agent will release the Escrow Deposit and all interest earned to the Buyer, or will pay the Escrow Deposit to the Seller as a credit against the Purchase Price, as directed by the Buyer.

3. **Representation and Warranties of Seller.** Seller hereby represents and warrants to Buyer as follows:

3.1 **Organization, Standing and Qualification.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Oregon. Seller has all requisite power and authority to enter into this Agreement and the other documents and instruments to be executed and delivered by Seller and to carry out the transactions contemplated hereby and thereby.

3.2 **Authorization and Binding Obligation.** The execution, delivery and performance of this Agreement and the other Transaction Documents (as defined in Section 7(d)) by Seller have been and will be duly and validly authorized by all necessary action on the part of Seller. This Agreement has been duly signed and delivered by Seller and constitutes the legal, valid and binding obligations of Seller, enforceable in accordance with its terms, except as the enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, and by judicial discretion in the enforcement of equitable remedies.

3.3 **Good Title: No Liens.** Seller holds good and valid title to the License and the other Station Assets free and clear of all Liens and is the sole and exclusive owner of such assets. Upon the payment of the Purchase Price, Buyer will acquire good and valid title to the Station Assets, free and clear of all liens, claims, petitions, charges and encumbrances of whatsoever nature.

3.4 **Absence of Violation, Conflicting Agreements.** The execution, delivery and performance of this Agreement by Seller (with or without the giving of notice, lapse of time, or both): (i) do not require the consent of any third party other than the FCC; (ii) will not violate any provision of the Operating Agreement of Seller; (iii) will not violate any applicable law, judgment, order, injunction, decree, rule, regulation, ordinance or ruling of any court or governmental authority; (iv) 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; and (v) will not create any claim, liability, lien, condition, charge or encumbrance of any nature whatsoever upon any of the Station Assets.

3.5 **FCC and Governmental Matters.**

(a) Seller is the sole holder of the License which is, and at Transfer (as defined) will be, in full force and effect and has not been revoked, suspended, canceled, rescinded, terminated or modified and has not expired. Seller warrants that as of the date of this Agreement, and as of the Transfer Date, the Station can be built and operated as specified in the License. Seller has no other authorizations, construction permits or licenses issued by the FCC pertaining to the Station. There are no applications pending before the FCC for modification of the License except for applications which have been disclosed to Buyer. There is not pending, or to Seller's knowledge threatened, any action before the FCC to revoke, suspend, cancel, rescind or modify the License (other than proceedings to amend FCC rules of general applicability). There is not now issued, pending, outstanding, or to Seller's knowledge, threatened, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint against Seller, the Station or the License. Seller is aware of no facts and has received no notice or other communication from the FCC indicating that Seller is not in compliance in all material respects with all applicable requirements of the FCC.

(b) All regulatory fees, reports and other filings required to be filed with the FCC by Seller have been timely filed. All such reports and filings are accurate and complete in all material respects. The public inspection file of Seller will be complete at Closing and maintained in compliance with 47 C.F.R. §73.3526 at a publicly accessible location in Price, Utah between now and Closing.

(c) Seller is, in all material respects, in compliance with all requirements of law, federal, state and local, and all requirements of governmental authorities having jurisdiction over it.

**3.6 Liabilities.** As used in this Agreement, the term “Liability” means and includes any direct or indirect indebtedness, guaranty, endorsement, claim, cause of action, loss, damage, deficiency, cost, expense, obligation or responsibility, fixed or unfixed, known or unknown, asserted or unasserted, liquidated or unliquidated, secured or unsecured. A full disclosure and description of all Sellers’ liabilities relating to the Station Assets or to which any of the Station Assets are subject is attached hereto as Schedule 3.6. Except for the obligation to pay FCC regulatory fees and as otherwise set forth in Schedule 3.6 hereto, Seller has no Liabilities of any kind, nor are the Station Assets subject to Liabilities of any kind. The Seller has no knowledge of any circumstances, condition, events or arrangements, contractual or otherwise, which may give rise to Liabilities for the Seller or relating to the Station Assets or to which any of the Station Assets may be subject either prior to or after the Transfer Date.

**3.7 Absence of Litigation.** There is no suit, action, proceeding or investigation now pending or, to the best knowledge of Seller, threatened, before any federal, state or local court, grand jury, administrative or regulatory body, arbitration or mediation panel or similar body, against Seller or in any way involving or relating to the Station Assets, or which may result in any judgment, order, decree, liability, award or other determination which will, or could, have any material adverse effect upon any of the Station Assets, nor to the best knowledge of Seller are there any grounds therefore. There is no order, judgment or decree of any court or governmental agency, and to the best knowledge of Seller there are no circumstances that could be reasonably expected to result in any such order, judgment or decree, enjoining Seller from selling and transferring the License or any of the Station Assets to Buyer pursuant to this Agreement.

**3.8 Absence of Contracts.** Seller is not a party to or bound by any written, oral or implied contract, agreement, lease, power of attorney, guaranty, surety arrangement or other commitment relating in any way to any of the Station Assets or to the future business of the Station.

**3.9 Disclosure.** No representation or warranty by Seller in this Agreement, nor any statement, certificate, schedule, document or exhibit hereto furnished or to be furnished by or on behalf of Seller pursuant to this Agreement or in connection with the transactions contemplated hereby, contains or shall contain any untrue statement of material fact or omits or shall omit a material fact necessary to make the statements contained therein not misleading. All statements and information contained in any certificate, instrument, schedule or document delivered by or on behalf of Seller shall be deemed representations and warranties by Seller.

**3.10 Due Diligence.** Buyer has fifteen business days to complete due diligence on the Station.

**4. Representations and Warranties of Buyer.** Buyer represents and warrants to Seller as follows:

4.1 **Organization and Standing.** Buyer has all requisite corporate power and authority to enter into this Agreement and the other documents and instruments to be executed and delivered by Buyer and to carry out the transactions contemplated hereby and thereby.

4.2 **Authorization and Binding Obligation.** The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action on the part of Buyer. This Agreement has been duly signed and delivered by Buyer and constitutes the legal, valid and binding obligations of Buyer, enforceable against it in accordance with its terms, except as the enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors’ rights generally, and by judicial discretion in the enforcement of equitable remedies.

4.3 **Absence of Violation, Conflicting Agreements.** Buyer’s execution, delivery and performance of this Agreement (with or without the giving of notice, lapse of time, or both): (i) do not require the consent of any third party other than the FCC; (ii) will not violate any provision of its Articles of Incorporation or By-laws; (iii) will not violate any applicable law, judgment, order, injunction, decree, rule, regulation, ordinance or ruling of any court or governmental authority; (iv) 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, such that Buyer could not acquire the Station Assets.

4.4 **Absence of Litigation.** There is no suit, action, proceeding or investigation pending or, to

Buyer's knowledge, threatened before any federal, state or local court, grand jury, administrative or regulatory body, arbitration, or mediation panel or similar body, to which Buyer is a party, which seeks to enjoin or prohibit or otherwise to question the validity of any action taken or to be taken by Buyer pursuant to or in connection with this agreement.

4.5 **Disclosure.** No representation or warranty by Buyer in this Agreement, nor any statement, certificate, schedule, document or exhibit hereto furnished or to be furnished by or on behalf of Buyer pursuant to this Agreement or in connection with the transactions contemplated hereby, contains or shall contain any untrue statement of material fact or omits or shall omit a material fact necessary to make the statements contained therein not misleading. All statements and information contained in any certificate, instrument, schedule or document delivered by or on behalf of Buyer shall be deemed representations and warranties by Buyer.

5. **Covenants of Seller.** Between the date hereof and the Transfer Date, except as contemplated by this Agreement or with the prior written consent of Buyer, Seller hereby covenants and agrees:

(a) to perform all acts necessary to carry out the transactions contemplated by this Agreement and not to: (i) sell, transfer or encumber any of the Station Assets; or (ii) perform any acts within its control that are inconsistent with its representations, warranties, covenants and agreements set forth herein;

(b) to notify Buyer promptly of the commencement or threat of any claim, suit, action, arbitration, legal, administrative or other proceeding, governmental investigation or tax audit against (i) Seller or (ii) any other party that relates in any way to, or that could reasonably be expected to affect the License or any of the Station Assets;

(c) to cooperate fully with Buyer in taking any and all actions necessary or desirable for the consummation of the transactions contemplated by this Agreement; and

(d) upon Buyer's request and at Buyer's expense, to file an application or applications with the FCC for modification of the transmitting facilities of the Station.

6. **Joint Covenants.**

6.1 **Cooperation.** Buyer and Seller shall cooperate fully with each other and their respective counsel in connection with any actions required to be taken as part of their obligations under this Agreement, including (i) the filing of an application (FCC Form 314) (the "FCC Application") with the FCC, (ii) the defense against any petition to deny or informal objection filed against the FCC Application, and (iii) the Buyer's assumption of any leases or other agreements relating to the Station. The parties will use their best efforts to consummate the transactions contemplated hereby and to fulfill their obligations hereunder. No party shall take any action that is inconsistent with its obligations hereunder, that would render any of its representations or warranties herein untrue or incomplete or that could hinder or delay the foregoing. Each party shall prepare its portion of the FCC Application, which shall be filed with the FCC within ten (10) business days of the execution of this Agreement. Each party shall share equally in the payment of FCC filing fees associated with the FCC Application. Each party shall pay its own attorney fees incurred in filing and prosecuting the FCC Application.

7. **Seller's Deliveries at Transfer.** At Transfer, Seller shall deliver or cause to be delivered to Buyer the following:

(a) A Certificate, dated as of the Transfer Date and signed by Seller's CEO or CFO, to the effect that (i) all representations and warranties of Seller contained in this Agreement, the Bill of Sale, the Transaction Documents, or in any exhibit, schedule, certificate or other document delivered pursuant hereto, shall be true and correct in all material respects on and as of the Transfer Date with the same force and effect as if made on and as of that date, and (ii) all of the terms, covenants and conditions to be complied with and performed by the Seller on prior to the Transfer Date shall have been complied with or performed in all material respects;

(b) An original copy of the License, together with a copy of the FCC's consent to assignment of the License to Buyer or its assignee, and all other files, records and correspondence pertaining to the

License or the Station in Seller's possession;

(c) Written evidence satisfactory to Buyer of the transfer of title to the License and the other Station Assets;

(d) A Bill of Sale, and other such documents or instruments as Buyer may reasonably request to carry out the transaction contemplated by this Agreement. For purposes of this Agreement, all such documents are defined as the "Transaction Documents"; and,

(e) An opinion or opinions of the Seller's counsel dated as of the Transfer Date substantially in the form of Schedule 7(e) hereto.

(f) Seller shall assist Buyer in completing the construction of the Station at Buyer's sole expense.

(g) Once the Station is operational and in full compliance with the FCC Authorizations, Seller will enter into a Local Marketing Agreement ("LMA") until Closing. The annual LMA payment will be One Dollar (\$1.00) plus reimbursement of all expenses.

(h) The seller will be responsible at closing for brokerage fees to the exclusive broker in this transaction, which is H.B. La Rue, Media Brokers.

8. **Buyer's Deliveries at Transfer.** At Transfer, Buyer shall deliver or cause to be delivered to Buyer the following:

(a) A Certificate, dated as of the Transfer Date and signed by an executive officer of Buyer, to the effect that (i) all representations and warranties of the Buyer contained in this Agreement, or in any exhibit, schedule, certificate or other document delivered pursuant hereto, shall be true and correct in all material respects on and as of the Transfer Date with the same force and effect as if made on and as of that date, and (ii) all of the terms, covenants and conditions to be complied with and performed by Buyer on or prior to the Transfer Date shall have been complied with or performed in all material respects.

(b) The purchase price in cash as provided in Section 2 hereof.

9. **Transfer.**

9.1 **Time and Place.** The Transfer of the Station Assets by Buyer from Seller ("Transfer") will take place at the offices of Buyer, at Buyer's discretion, within fifteen business (15) days following the date on which the FCC Consent becomes a Final Order, or at such other time and place as the parties may mutually agree (such date, the "Transfer Date"). Transfer may occur via facsimile.

10. **Termination.**

10.1 **Termination by Buyer.** Buyer may terminate this Agreement and receive a full refund of the Purchase Price, if not then in material default, upon written notice to Seller upon the occurrence of any of the following:

(a) If FCC approval is denied or approval has not been received ninety (90) days prior to the expiration date of the License ; or

(b) If the Seller defaults in the observance or in the due and timely performance of any of its material covenants or agreements contained herein and such default has not been cured within ten (10) days after notice by the Buyer.

10.2 **Termination by Seller.** Seller may terminate this Agreement, if not then in material default, upon written notice to Buyer upon the occurrence of any of the following:

(a) If the Buyer defaults in the observance or in the due and timely performance of any of its material covenants or agreements contained herein, including the due and timely payment of the Purchase Price, and such default has not been cured within ten (10) days after notice by the Seller.

**11. Indemnification.**

**11.1 Seller's Indemnification.** Seller shall indemnify, defend and hold Buyer and its officers, directors, employees or agents harmless from and against any and all loss, cost, liability, damage and expense (including legal and other expenses incident thereto) of every kind, nature or description arising out of: (a) the breach of any representation or warranty of Seller set forth in this Agreement or in any schedule or certificate delivered to Buyer pursuant hereto; (b) the breach of any of the covenants or agreements by Seller contained in or arising out of this Agreement or the transactions contemplated hereby; or (c) the ownership of the License prior to the Transfer Date, and the conduct of the business of the Station prior to the Transfer Date, including, but not limited to, any liability, judgment or damages against Seller, its officers, directors, employees or agents, as a result of litigation involving the Seller prior to the Transfer Date.

**11.2 Buyer's Indemnification.** Buyer shall indemnify, defend and hold Seller and its officers, directors, employees or agents harmless from and against any and all loss, cost, liability, damage and expense (including legal and other expenses incident thereto) of every kind, nature or description arising out of (a) the breach of any representation or warranty of Buyer set forth in this Agreement; or (b) the ownership of the License after the Transfer Date; or (c) the breach of any of the covenants or agreements by Buyer contained in or arising out of this Agreement or the transactions contemplated thereby.

**12. Assignability.** Seller agrees that the entirety of Buyer's unperformed rights, duties, benefits and obligations under this Agreement are assignable by Buyer to (i) a wholly owned subsidiary of Equity Broadcasting Corporation ("EBC"), provided EBC agrees to accept such assignment and assume all such obligations hereunder, or (ii) to another third party, subject to Seller's reasonable approval, not to be unreasonably withheld or delayed. Seller agrees that, upon such assignment together with a full assumption of all rights, duties, benefits and obligations under this Agreement, Buyer shall have no further obligations or liability hereunder and Seller shall be without recourse to Buyer, its parents, affiliates or subsidiaries, as to any claim arising under this Agreement or any other Transaction Document.

**13. Taxes.** Seller shall be solely responsible for any sales, use or transfer tax due as a result of this transaction.

**14. Other Provisions.**

**14.1 Attorney Fees.** Should any party default in the performance of any of the terms or conditions of this Agreement, which default results in the filing of a lawsuit for damages, specific performance, or other permitted remedy, the prevailing party in such lawsuit shall be entitled to its reasonable legal fees and expenses, including such fees and expenses at the appellate level.

**14.2 Benefit and Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**14.3 Governing Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Utah, without regard to the choice of law provisions thereof. Any litigation arising from the Agreement shall be subject to the exclusive jurisdiction of the Oregon State Courts or Federal Courts located in Oregon.

**14.4 Construction.** The parties acknowledge and agree that this Agreement has been fully negotiated between them and shall not be interpreted or construed against the drafting party.

**14.5 Notices.** All notices, demands, requests or other communication required or permitted hereunder shall be in writing and sent by certified, express or registered mail, return receipt requested, postage

prepaid, overnight air courier service, personal delivery, or via facsimile (with proof of transmission) to the address specified below (or to such other address which a party shall specify to the other party in accordance herewith):

If to Buyer:                      Roseburg Broadcasting, Inc.  
#1 Shackleford Drive, Suite 400  
Little Rock, AR 72211  
Attn: Larry E. Morton, President

With a copy to:                      Lori Withrow, Esq.  
#1 Shackleford Drive, Suite 400  
Little Rock, AR 72211

If to Seller:                      Johanna Broadcasting, Inc.  
C/O John J. Kolego  
804 Pearl Street  
Eugene, OR 97401

With a copy to:                      H.B. La Rue, Media Brokers  
Attn: Scott Long  
9454 Wilshire Blvd. Ste 628  
Beverly Hills, CA 90212

Notice shall be deemed to have been given on the date of personal delivery, the date set forth in the records of the delivery service, or on the return receipt.

14.6 **Multiple 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.

14.7 **Entire Agreement.** This Agreement, the Schedules and Exhibits hereto, and all documents to be delivered by the parties pursuant hereto, collectively represent the entire understanding and agreement between Buyer and Seller with respect to the subject matter hereof. This Agreement supersedes all prior memoranda and agreements between the parties hereto, and may not be modified, supplemented or amended, except by a written instrument signed by each of the parties hereto designating specifically the terms and provisions so modified, supplemented or amended.

14.8 **Captions.** The section captions and headings in this Agreement are for convenience and reference purposes only and should not affect in any way the meaning or interpretation of this Agreement.

14.9 **No Waiver.** Unless otherwise specifically agreed in writing to the contrary: (i) the failure of any party at any time to require performance by the other of any provision of this Agreement shall not affect such party's right thereafter to enforce the same; (ii) no waiver by any party of any default by another shall be taken or held to be a waiver by such party of any other preceding or subsequent default; and (iii) no extension of time granted by any party for the performance of any obligation or act by any other party shall be deemed to be an extension of time for the performance of any other obligation or act hereunder.

14.10 **Further Assurances.** Upon the signing of this Agreement, Seller will use its best efforts, and Buyer will reasonably cooperate with Seller, to secure FCC authorization for the transfer of the License and the other Station Assets and any related authorizations or fulfillment of any conditions hereto. The parties acknowledge that FCC consent is required to transfer of the License, and agree not to effect such transfer before such consent has been obtained. At and after the Transfer, Buyer and Seller will, without further consideration, execute and deliver such further instruments and documents and do such other acts and things that the other party may reasonably request in order to effect or confirm the transactions contemplated by this Agreement.

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

## ROSEBURG BROADCASTING, INC.

By Larry E. MortonName: Larry E. MortonTitle: President

## JOHANNA BROADCASTING, INC.

By John T. KalegoName: John T. KalegoTitle: President