

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), is made this \_\_\_\_ day of May, 2010, by and between Youngers Colorado Broadcasting LLC, a Colorado limited liability company ("Buyer"), and Community Public Radio, Inc., a Georgia non-profit corporation ("Seller").

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

WHEREAS, Seller holds licenses issued by the Federal Communications Commission ("FCC") for, and is the owner of certain other assets used and useful in the operation of W264AR, Winder, Georgia (Facility ID No. 147273) (the "Translator");

WHEREAS, Seller desires to sell or assign all right, title and interest in the Translator and related assets, including but not limited to the assignment of the licenses of the Translator, to Buyer;

WHEREAS, Buyer desires to acquire the Translator and certain related assets, including but not limited to the assignment of the licenses of the Translator under the terms and conditions stated herein; and

WHEREAS, the consummation of this Agreement is subject to the prior consent of the FCC.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed as follows:

### **ARTICLE I SALE & PURCHASE**

Section 1.1 Translator Assets. Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as hereinafter defined) all interests of Seller described below, free and clear of all liens and encumbrances (the "Translator Assets"):

(a) Licenses and Authorizations. All of the FCC authorizations issued with respect to the Translator, such licenses and authorizations being described on Schedule 1.1(a) attached hereto ("FCC Authorizations").

(b) Tangible Personal Property. All interests of Seller as of the date of this Agreement in all equipment, antennas, cables, furniture, and supplies, and other tangible personal property used in operation of the Translator described in Schedule 1.1(b) (the "Tangible Personal Property").

(c) Files and Records. All FCC logs and other records that relate to the operation of the Translator.

(d) Translator Agreements. All Translator leases and agreements listed in Schedule 1.1(d) (the “Translator Agreements”). Buyer shall assume no other obligation of Seller.

Section 1.2 Excluded Assets. The following assets and obligations of Seller, to the extent in existence on the Closing Date (the “Excluded Assets”), shall be retained by Seller:

(a) Cash and Investments. All of Seller’s cash on hand or in bank accounts and any other cash equivalents including, without limitation, certificates of deposit, commercial paper, treasury bills, or money market accounts.

(b) Deposits. All rent, utility and other deposits held by third parties.

(c) Other Obligations. All obligations of Seller not expressly assumed by Buyer hereunder.

Section 1.3 Purchase Price. The consideration to be paid for the Station Assets shall be FIFTY THOUSAND DOLLARS (\$50,000.00) (the “Purchase Price”). The Purchase Price shall be paid as follows:

(a) On the date hereof, Buyer has deposited with Seller, THREE THOUSAND DOLLARS (\$3,000.00) to be held as an earnest money deposit (the “Earnest Money Deposit”), in accordance with the terms and conditions of this Agreement. The Earnest Money Deposit shall be applied to the Purchase Price at closing. In the event this Agreement is breached by Seller, provided Buyer is not itself in breach, the Earnest Money Deposit shall be returned to Buyer. The Earnest Money Deposit shall also be returned to Buyer in the event the Agreement is terminated pursuant to Paragraph 4.2(a), 4.2(c), or 4.2(d). In the event this Agreement is breached by Buyer, Seller’s sole remedy shall be retention of the Earnest Money Deposit as liquidated damages.

(b) FORTY-SEVEN THOUSAND DOLLARS (\$47,000.00) at Closing by wire transfer of immediately available funds.

Section 1.4 Adjustments to Purchase Price.

(a) Prorations. At the Closing, all income of the Translator and all taxes and assessments, rent, water, sewer and other utility charges and lienable municipal services, if any, with respect to the Translator Assets to be acquired by Buyer shall be prorated between Buyer and Seller on the basis of the period of time to which such income or liabilities apply. Seller will receive all income billed or received, and bear all costs and expenses incurred through 12:01 AM on the Closing Date, and Buyer will receive all income billed, and bear all costs and expenses incurred, for all periods thereafter. To the extent such items cannot be determined at Closing, a final settlement on such prorations shall be made within thirty (30) days after the Closing Date. If the Closing occurs before the tax rate is fixed for the then current term, or if the tax rate is changed with respect to any period of time prior to the Closing Date, then the post-Closing prorations shall include a corresponding adjustment. All FCC filing fees and regulatory fees will be prorated as of the Closing Date.

(b) Disputes. In the event of any dispute between the parties as to any adjustments under this section, the amounts not in dispute shall be paid at the time provided herein and the dispute shall be resolved by an independent certified public accountant (“CPA”) who shall be jointly selected by the parties within thirty (30) days after the Closing or after the final settlement on prorations, as the case may be. The decision of the CPA shall be binding on each of the parties and enforceable by a court of competent jurisdiction. The fees and expenses of the CPA shall be paid one-half by Seller and one-half by Buyer.

Section 1.5 Conditions Precedent. The obligations of the parties to close the transactions contemplated herein shall be subject to the following conditions precedent: Seller shall have obtained the FCC Consent to the assignment of the Translator (which consent shall have become a Final Order as defined below).

Section 1.6 Closing. Within ten (10) business days after the FCC Consent in an FCC public notice becomes final, that is no longer subject to appeal or review, the parties shall consummate the transaction contemplated by this Agreement at a closing (the “Closing”); provided, however, Buyer, at its sole discretion, may consummate the transaction on grant of FCC Consent prior to finality. At the Closing, Seller shall deliver to Buyer a Bill of Sale, an Assignment of License, and any other documents of conveyance reasonably requested by Buyer and necessary to consummate the transaction contemplated by this Agreement. Buyer and Seller shall each deliver to the other a certificate executed by an officer or managing member of the respective companies certifying that the representations and warranties of such party contained herein are true and correct as of the Closing Date, as if made on such date.

## **ARTICLE II COVENANTS & WARRANTIES**

Section 2.1 Seller’s Covenants and Warranties. Seller hereby covenants and warrants as follows:

(a) Seller is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Georgia.

(b) The FCC Authorizations are in full force and effect; there are no outstanding unsatisfied FCC citations or cease and desist orders against the Translator and any such subsequently issued shall be satisfied and resolved by Seller prior to Closing; and that it is not now and will not be as of the date of Closing aware of any ongoing investigation of the Translator by the FCC or by any other federal or state governmental agency, or any conditions at the Translator which violate any FCC rule or policy.

(c) That it is aware of no litigation, proceeding or investigation whatsoever pending or threatened against or relating to Seller, its business, or the assets to be transferred hereunder and that it knows of no reason why the FCC would not find it qualified to assign its licenses to Buyer.

(d) That it has good and marketable title to the Translator Assets and that it will deliver the Translator and Translator Assets at Closing free and clear of all debts, liens and claims or other encumbrances of any kind. Seller is in full compliance with all terms of the

Translator Agreements listed in Schedule 1.1(d). Neither Seller nor any other parties to the Translator Agreements is in breach of those agreements or any of them, and no payments related to those agreements are in default or are in arrears. Seller will use its commercially reasonable efforts to obtain any and all necessary consents to the assignment of all Translator Agreements requiring such prior to the Closing Date.

(e) That at present and on the Closing date, (i) Seller will have full power and authority to enter into and perform this Agreement; (ii) that the execution and delivery of this Agreement will not conflict with or result in a breach of the articles of incorporation, bylaws, or similar organizational document of Seller; (iii) this Agreement does not violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under) any material agreement, indenture, mortgage, lease, contract or other instrument to which Seller is a party or by which it is bound or affected and, (iv) that this Agreement will constitute a valid and binding Agreement of the Seller, enforceable in accordance with its terms.

(f) Prior to Closing, Seller will have paid all taxes attributable to the Translator Assets which are due and owing. Prior to Closing, all filings Seller is required to have made with any taxing authority will have been made, with all such filings being true and correct in all respects.

(g) Seller knows of no claim, allegation or charge that the real property used in the operation of the Translator, or the use thereof, violates any environmental law of any federal, state or local government, and Seller has received no notice to the contrary from any governmental authority.

(h) Seller has filed all material returns, reports, applications and statements for the Translator which are required to be filed with the FCC or with any other governmental agency, and all reporting requirements of the FCC have been complied with.

(i) No consent, approval, authorization, license, exemption of, filing or registration with any court or governmental authority is required in connection with the execution and delivery of this Agreement or the consummation by Seller of any transaction contemplated hereby or thereby, other than those of the FCC. No approval, authorization or consent of any other third party is required in connection with the execution and delivery by Seller of this Agreement and the consummation of the transactions contemplated hereby or thereby, except as may have been previously obtained by Seller.

(j) No statement, representation or warranty made by Seller to Buyer in this Agreement or in any document to be delivered hereunder shall be false or misleading in any material respect, or fail to include any matter if such omission would render any statement, representation or warranty materially false or misleading. Seller shall promptly report to Buyer any matter which occurs or in which Seller learns that is inconsistent with or conflicts with any statement, representation or warranty made herein.

Section 2.2 Buyer's Covenants and Warranties. Buyer hereby covenants and warrants as follows:

(a) Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado, and as of the Closing Date, will be authorized to conduct business in Georgia.

(b) Buyer is legally, financially and otherwise qualified, and knows of no reason why it should not be approved to become the Translator's licensee.

(c) That at present and on the Closing date, (i) Buyer will have full power and authority to enter into and perform this Agreement; (ii) that the execution and delivery of this Agreement will not conflict with or result in a breach of the articles of organization or similar organizational document of Buyer; (iii) this Agreement does not violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under) any material agreement, indenture, mortgage, lease, contract or other instrument to which Buyer is a party or by which it is bound or affected and, (iv) that this Agreement will constitute a valid and binding Agreement of the Buyer, enforceable in accordance with its terms.

(d) No statement, representation or warranty made by Buyer to Seller in this Agreement or in any document to be delivered hereunder shall be false or misleading in any material respect, or fail to include any matter if such omission would render any statement, representation or warranty materially false or misleading. Buyer shall promptly report to Seller any matter which occurs or in which Buyer learns that is inconsistent with or conflicts with any statement, representation or warranty made herein.

### **ARTICLE III BROKERS**

Seller and Buyer hereby mutually represent that there are no finders, consultants or brokers involved in the transaction. Neither Seller nor Buyer has agreed to pay any brokers, or finder's fee in connection with this transaction. Seller and Buyer agree to indemnify and hold the other harmless from any and all loss, cost, liability, damage and expense (including legal and other expenses incident thereto) in respect of any claim for a broker, finder or consultant's fee or commission or similar payment by virtue of any alleged agreements, arrangements or understandings with the indemnifying party.

### **ARTICLE IV TERMINATION**

Section 4.1 Default and Cure. If either party believes the other party to be in material default hereunder, the non-defaulting party may provide the defaulting party with notice specifying in reasonable detail the nature of such default. If such default cannot be cured, or has not been cured by the earlier of (i) the Closing Date, or (ii) within thirty (30) calendar days after delivery of such notice, then the party giving such notice may terminate this Agreement. Buyer shall be entitled to specific performance as provided in Section 8.6.

#### **Section 4.2 Termination.**

(a) Mutual Consent. This Agreement may be terminated by mutual written consent of Seller and Buyer.

(b) Seller. This Agreement may be terminated on notice by Seller pursuant to Section 4.1 hereof.

(c) Buyer. This Agreement may be terminated on notice by Buyer at any time by giving written notice to Seller or pursuant to Section 4.1 hereof.

(d) Passage of Time. This Agreement will terminate automatically, unless extended by agreement of the parties hereto, if the FCC Consent has not been granted within twelve (12) months of the date of this Agreement, provided that at that time, neither party is in material breach of any provision of this Agreement.

Section 4.3 Effect of Termination. In the event of termination of this Agreement pursuant to Section 4.2(a) or (d), this Agreement shall forthwith become void and the parties shall be released and discharged from any further obligation hereunder, except that the agreements contained in Article V hereof shall survive the termination hereof.

## **ARTICLE V CONFIDENTIALITY**

The parties shall at all times prior to and for one (1) year after the Closing maintain confidential and not use for any purpose other than the operation of Translator by Buyer, any information relating to this transaction or the FCC Authorizations (other than information in the public domain not as the result of a breach of this Agreement), except: (i) for disclosure to authorized representatives of a party, provided that any such person shall agree to maintain confidential any such information; (ii) as reasonably necessary to the performance of this Agreement; (iii) as authorized in writing by a party; or (iv) to the extent that disclosure is required by law or the order of any governmental authority under color of law; provided, that, prior to disclosing any information pursuant to this clause (iv), the party from whom disclosure is requested shall have given reasonable prior written notice thereof to the other party and provided such party with the opportunity to contest such disclosure at such party's expense. Neither party shall issue any press releases or communications to the press or general public without the prior written approval of the other party.

## **ARTICLE VI CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS**

The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions on or before the Closing Date, unless specifically waived in writing by Buyer prior to the Closing Date:

Section 6.1 Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall have been true and correct in all material respects on the date of this Agreement and shall be true and correct in all material respects on the Closing Date as though made on and as of the Closing Date.

Section 6.2 Compliance with Covenants. Seller shall have duly performed and complied with in all material respects all covenants, agreements and obligations required by this Agreement to be performed or complied with by it on or prior to the Closing.

Section 6.3 Absence of Litigation. No action or proceeding shall be pending by or before any court or other governmental body or agency seeking to restrain, prohibit or invalidate the transactions contemplated by this Agreement or which would materially adversely affect the Translator or the Translator Assets.

Section 6.4 Absence of Change. Between the date of this Agreement and the Closing, no material adverse change shall have occurred in the Translator Assets.

Section 6.5 Consents and Approvals. All consents, orders or notifications of, or registrations, declarations or filings with, or expiration of waiting periods imposed by, any applicable governmental or judicial authority shall have been made or obtained or shall have occurred. With respect to consents, approvals and authorizations of any governmental authority or administrative agency, including, but not limited to the FCC (“Governmental Authorities”), the same shall have been obtained.

Section 6.6 Removal of Liens. All liens on any of the Translator Assets, if any, shall have been removed, and Seller shall have provided to Buyer evidence of such removal.

Section 6.7 No Defaults. No event of default or default by Seller shall have occurred that has not been cured by Seller or waived by Buyer.

## **ARTICLE VII**

### **CONDITIONS PRECEDENT TO SELLER’S OBLIGATIONS**

The obligations of Seller to consummate the transaction contemplated by this Agreement are subject to the satisfaction of each of the following conditions on or before the Closing Date, unless specifically waived in writing by Seller prior to the Closing:

Section 7.1 Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall have been true and correct in all material respects on the date of this Agreement, and shall be true and correct in all material respects on the Closing Date as through made on and as of the Closing Date.

Section 7.2 Compliance with Covenants. Buyer shall have duly performed and complied with in all material respects all covenants, agreements and obligations required by this Agreement to be performed or complied with by it on or before the Closing Date.

Section 7.3 Absence of Litigation. No action or proceeding shall be pending by or before any court or other governmental body or agency seeking to restrain, prohibit or invalidate the transactions contemplated by this Agreement.

Section 7.4 Consents and Approvals. All consents, orders or notifications of, or registrations, declarations or filings with, or expiration of waiting periods imposed by, any applicable governmental or judicial authority shall have been made or obtained or shall have occurred. With respect to consents, approvals and authorizations of any Governmental Authorities, the same shall have been obtained by Final Order. Provided, however, in the event that the FCC has granted its Consent to the assignment of the FCC Authorizations, and such

grant has not become a Final Order, and the Buyer elects to waive the requirement of obtaining a Final Order, this requirement shall also be waived as to Seller.

Section 7.5 No Defaults. No event of default or default by Buyer shall have occurred that has not been cured by Buyer or waived by Seller.

## **ARTICLE VIII MISCELLANEOUS**

Section 8.1 FCC Assignment Application. Both parties hereto agree to make application to the FCC for consent to the assignment of the FCC Authorizations within ten (10) business days after the effective date of this Agreement (the "Assignment Application"), and to cooperate fully and diligently in seeking FCC's consent to assign the FCC Authorizations from Seller to Buyer ("FCC Consent").

Section 8.2 Jointly Drafted. This Agreement shall be deemed to have been drafted by both parties and, in the event of a dispute, shall not be construed against either party.

Section 8.3 Authority to Execute. The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities or agencies to execute this Agreement and to legally bind their respective entities or agencies as set forth in this Agreement.

Section 8.4 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 in each case to the following address as applicable:

If to Buyer to: Kevin J. Youngers, Sole Member  
Youngers Colorado Broadcasting LLC  
1951 28<sup>th</sup> Avenue, Unit 29  
Greeley, CO 80634

With a copy (which shall not constitute notice) to:

A. Wray Fitch III  
Gammon & Grange, P.C.  
8280 Greensboro Drive, 7<sup>th</sup> Floor  
McLean, VA 22102-3807

If to Seller: Lowell Jackson, Vice President  
Community Public Radio, Inc.  
P. O. Box 6767  
Athens, GA 30604



With a copy (which shall not constitute notice) to:

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

Section 8.5 Strict Compliance. No failure of a party to exercise any right or to insist upon strict compliance by the other party with any obligations and no custom or practice of the parties at variance with this Agreement shall constitute a waiver of the right of a party to demand exact compliance. Waiver by one party of any particular default by the other party shall not affect or impair a party's rights with respect to an subsequent default of the same or of a different nature, nor shall any delay or omission of a party to exercise any rights arising from such default affect or impair the rights of that party as to such default or any subsequent default.

Section 8.6 Specific Performance. The parties acknowledge that the Translator is of a special, unique and extraordinary character, and that damages alone are an inadequate remedy for a breach of this Agreement by Seller. In the event of a breach or threatened breach by Seller of any representation, warranty, covenant or agreement under this Agreement which prevents the Closing from occurring, Buyer shall be entitled as its sole remedy to an injunction restraining any such breach or threatened breach and, subject to obtaining any requisite approval of the FCC, to enforcement of this Agreement by a decree of specific performance requiring Seller to fulfill its obligations under this Agreement, in each case without the necessity of showing economic loss or other actual damage and without any bond or other security being required. In any action by Buyer to specifically enforce the Seller's obligation to close the transactions contemplated by this Agreement, Seller shall waive the defense that there is an adequate remedy at law or in equity and agrees that the Buyer shall be entitled to obtain specific performance of Seller's obligation to close without being required to prove actual damages. As a condition to seeking specific performance, Buyer shall not be required to tender the Purchase Price as contemplated by Section 1.3, but shall be required to demonstrate that Buyer is ready, willing and able to tender the Purchase Price as contemplated by such Section 1.3.

Section 8.7 Severability and Independent Covenants. If any covenant or other provision of this Agreement is invalid, illegal or incapable of being enforced by reason of any result of law, administrative order, judicial decision or public policy, all other conditions and provisions shall remain in full force and effect. No covenant shall be deemed dependent upon any other covenant or provision unless so expressed in this Agreement.

Section 8.8 Assignment. This Agreement may not be assigned without prior written consent of the non-assigning party, which consent shall not be unreasonably withheld.

Section 8.9 Expenses. Except as provided elsewhere in this Agreement, each party hereto shall bear all of its expenses incurred in connection with the transactions contemplated by this Agreement including, without limitation, accounting and legal fees incurred in connection herewith; *provided, however*, Buyer shall be responsible for payment of the filing fee with the FCC in connection with the Assignment Application. Sales or transfer taxes arising from the transfer of the Translator Assets to Buyer shall be paid by Buyer.

Section 8.10 Recovery of Attorneys' Fees. In any litigation instituted by either party alleging that the other party has committed a breach of this Agreement, the prevailing party shall be entitled to recover, in addition to such other relief as may be ordered by the tribunal, its reasonable attorneys' fees and other costs incurred in connection with the conduct or defense of such litigation.

Section 8.11 Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Georgia, without regard to the conflict of law principles thereof.

Section 8.12 Entire Agreement. This document is the entire Agreement between the parties hereto and shall not be modified except in writing and with the consent of both parties hereto. This Agreement is intended to be an integrated Agreement and any prior oral or written agreements between the parties are merged into this Agreement and extinguished. This Agreement may be executed in counterpart copies. When exchanged, such executed counterpart copies shall have the same force and effect as a single executed Agreement.

*[Signatures on following page]*

IN WITNESS WHEREOF, we have hereunto set our hands and seals to this Agreement on the date written above.

**BUYER:**

**YOUNGERS COLORADO  
BROADCASTING LLC**

By: Kevin J. Youngers  
Kevin J. Youngers, Sole Member

**SELLER:**

**COMMUNITY PUBLIC RADIO, INC.**

By: Lowell Jackson  
Lowell Jackson, Vice President

**SCHEDULE 1.1(a)**  
**FCC AUTHORIZATIONS**

<u>Application</u>	<u>File Number</u>	<u>Expiration Date</u>
License to Cover	BLFT-20070212AAO	4/01/2012

**SCHEDULE 1.1(b)**  
**TANGIBLE PERSONAL PROPERTY**

Sending Antenna  
Transmitter  
Receive Antenna  
Cable

**SCHEDULE 1.1(d)**  
**TRANSLATOR AGREEMENTS**

None

4819-8124-9286, v. 1

ND: 4819-8124-9286, v. 2