

FM TRANSLATOR
ASSET PURCHASE AGREEMENT

This **FM TRANSLATOR ASSET PURCHASE AGREEMENT**, dated as of January 19th, 2016 (this "Agreement"), is entered into by and between PAUL SCOTT ALEXANDER, JR. ("Seller"), and MARBLE CITY MEDIA, LLC ("Buyer").

RECITALS

WHEREAS, Seller is the licensee of FM translator station W270AO licensed to Winona, Mississippi, Facility ID 150688 (the "Station"), pursuant to authorizations (the "FCC Authorizations") issued by the Federal Communications Commission (the "FCC").

WHEREAS, the FCC pursuant to a December 23, 2015, Public Notice (DA-1491), has opened a "window" for AM stations as provided in the *First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry in MB Docket 13-249* (the "*Report and Order*"), enabling relocation of the Station, as an FM translator for use with WBNM-AM, licensed to Alexander City, Alabama;

WHEREAS, on January 6, 2016, the Buyer and the current licensee of WBNM-AM, Westburg Broadcasting Montgomery, LLC, ("Westburg") filed an assignment application, file number BAL-20160106AAN, with the FCC to assign the license for WBNM-AM to Buyer, and in addition, Buyer has a time brokerage agreement with Westburg allowing Buyer to program WBNM-AM ;

WHEREAS, the Seller and Buyer anticipate that a non-reserved band FM channel can be found, which Buyer can specify in a minor modification change relocation application for Station as an FM translator for use with WBNM-AM pursuant to the *Report and Order*, and that the Buyer's minor modification application will be granted by the FCC in a Final Order;

WHEREAS, the Seller will cooperate in filing on January 29, 2016, the minor modification application in the FCC's initial "window" under the *Report and Order* for Station to be used as an FM translator for WBNM-AM by Buyer, when it is licensee of WBNM-AM; and

WHEREAS, on the terms and conditions described in this Agreement, Seller desires to sell and Buyer desires to acquire the FCC licenses and authorizations and certain of the assets owned by Seller and used or held for use exclusively in connection with the operation of the Station.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Buyer and Seller agree as follows:

Section 1. Sale of Assets. On the Closing Date (as hereinafter defined), Seller shall sell, assign and transfer to Buyer, and Buyer shall purchase and assume from Seller, the following assets

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owned by Seller and used or held for use exclusively in connection with the operation of the Station (the "Assets"):

(a) Seller's engineering data and other intangible personal property used or held for use exclusively in the operation of the Station (the "Personal Property"); and

(b) the licenses, permits, applications and other authorizations, including the FCC Authorizations (collectively, the "Licenses"), issued by the FCC, to Seller in connection with the operation of the Station, including without limitation those set forth on Schedule 1 attached to this Agreement, and any later obtained Licenses.

Seller shall transfer the Assets to Buyer at the Closing free and clear of all liens, claims or encumbrances of every kind and nature. The parties expressly agree that Buyer shall not assume any debts, accounts payables, or any other liabilities of Seller of any type or nature. Further, Buyer shall not assume any agreements, contracts, leases or any other commitments of Seller of any type or nature.

Section 2. Consideration. Upon the terms and subject to the conditions contained in this Agreement, and in consideration of the sale of the Assets, Buyer shall pay to Seller the aggregate sum of Forty Thousand and No/100 Dollars (\$40,000) (the "Purchase Price"). Concurrently with the execution of this Agreement, Buyer shall pay to Seller a deposit of Ten Thousand and No/100 Dollars (\$10,000), which deposit shall be applied to the Purchase Price at the Closing but otherwise nonrefundable to Buyer other than upon the termination of this Agreement (i) by Buyer pursuant to Section 9(a), (b) or (c). All Purchase Price amounts shall be payable in US Dollars by wire transfer of immediately available funds to an account, or accounts, designated in writing by Seller.

Section 3. FCC Consent; Assignment Application. Buyer and Seller shall execute, file and prosecute an application with the FCC (the "Assignment Application") requesting its consent to the assignment, from Seller to Buyer, of all the FCC Licenses in connection with operation of the Station (the "FCC Consent") at a date not later than ten (10) business days after the execution of this Agreement, or such earlier or later date as is necessary to comply with the *FCC Report and Order* and enable the modification application to be filed as soon as is possible in the "filing window" as referenced in Section 6 below. The FCC filing fee for the Assignment Application will be paid for by the Buyer.

Section 4. Closing Date; Closing Place. The closing (the "Closing") of the transactions contemplated by this Agreement shall occur, unless otherwise agreed to by Buyer and Seller, ten (10) days following the later of: (i) the date on which FCC Consent is granted and becomes a Final Order; however, the requirement for a Final Order is subject to waiver as provided in Sections 6 & 7 below; and (ii) the date of fulfillment of the Conditions Precedent to Closing under this Agreement in Sections 6 & 7 below, if such conditions are not waived by the parties.

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The Closing shall be held by mail, facsimile, or electronic mail, or in person as the parties may agree.

Section 5. Representations and Warranties.

- (a) Seller hereby makes the following representations and warranties to Buyer: (i) Seller is an individual residing in the State of Alabama; (ii) Seller has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereunder; (iii) Seller lawfully holds each of the FCC Licenses listed on Schedule 1; (iv) The Station's Licenses are in full force and effect, are in good standing with the FCC, and have not been revoked, suspended, canceled, rescinded or terminated and have not expired; and no protest or complaint of any type as to the Station is either pending or threatened at the FCC or any other governmental entity or court; (v) In the event the Station is currently off-the-air or later temporarily ceases on-air operation, pursuant to the FCC rules and policies, then on or before the Closing under this Agreement Seller will begin operations of the Station pursuant to the Licenses or other FCC authority to avoid cancellation of the FCC Licenses pursuant to Section 312(g) of the Communications Act, as amended; (vi) Seller owns and shall convey good title to the Station Licenses and other Assets, free and clear of debts, liens and encumbrances of any type, employing a bill of sale and assignments in a form customarily used in Montgomery County, MS or if the Station has been relocated for use with WBNM-AM, Tallapoosa County, AL; (vii) Between now and the date of Closing Seller shall not, without the consent of Buyer, enter into any leases or contracts pertaining to the Station which will survive Closing Date; and (viii) There will be no litigation, government inquiry, government proceeding or other similar matter, pending or threatened, in any court or government entity pertaining to the Station Licenses and Assets on the Closing Date.
- (b) Buyer hereby makes the following representations and warranties to Seller: (i) Buyer is limited liability company duly organized, validly existing and in good standing under the laws of the State of Alabama; (ii) Buyer has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereunder; (iii) on the Closing Date, Buyer will be qualified to be an FCC licensee and to hold the FCC Licenses that constitute part of the Assets;
- (c) The representations and warranties set forth in this Section 5 shall survive for twelve months following the termination of this Agreement.

Section 6. Conditions Precedent to Obligation of Buyer to Close.

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to the Closing Date, of each of the following conditions:

- (a) That pursuant to its First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry in MB Docket No. 13-249, FCC 15-142, released on October 23, 2015, as finally adopted and implemented, (hereafter referred to the Report and Order) and as specified in the FCC's December 23, 2015, Public Notice, the FCC has opened a filing "window" (or "windows") for AM stations, including specifically, Class D Station

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WBNM-AM, (fac. id. 60762) Alexander City, Alabama, in a "window" opening on January 29, 2016, and in later windows, to enable the Station to acquire one authorized non-reserved band FM translator up to 250 miles from the AM station to relocate to the service area of the AM, and specify any non-reserved band FM channel, as a minor modification application for use with the applicant's AM station, here for the Buyer, WBNM-AM;

- (b) That pursuant to the *Report and Order*, in conjunction with the Assignment Application, an application in an FCC filing window can be filed for a minor modification of the Station to a non-reserved band FM channel for use with the Station as relocated to the transmitter site of WBNM-AM to rebroadcast WBNM-AM which non-reserve channel will be in technical and legal compliance with the FCC's rules and as requirements specified under the *Report and Order* as adopted and implemented;
- (c) That Seller will file, the minor modification application in the January 29, 2016, filing "window" in the *Report and Order* with an appropriate rule waivers, if any, as necessary to enable processing of the application until grant or Closing has occurred;
- (d) That Seller will cooperate with Buyer in amending the minor modification application to a different non-reserve channel in the event the non-reserve channel chosen for the initial filing is determined to be mutually exclusive with any other application or station;
- (e) That the minor modification application is granted by the FCC with no terms or conditions adverse to Buyer's use of the Station with WBNM-AM in a Final Order, as Final Order is defined in this Agreement; provided however, at its option, the Buyer may waive this condition by written notice to Seller;
- (f) That upon approval of the minor modification application, upon request of Buyer, Seller will enter into a time brokerage agreement with Buyer with mutually agreeable terms, enabling the Buyer to use the Station as an FM translator with WBNM-AM, with the consent of Westburg, pending the Closing Date under this Agreement;
- (g) All representations and warranties of Seller made in this Agreement shall be true and complete in all material respects on and as of the Closing Date as if made on and as of that date;
- (h) All of the terms, covenants and conditions to be complied with and performed by Seller on or prior to Closing Date shall have been complied with or performed in all material respects;
- (i) The FCC Consent shall have been issued without any terms or conditions adverse to Buyer, and become a Final Order; provided however, at its option, the Buyer may waive this condition by written notice to Seller;
- (j) No suit, action, claim or governmental proceeding shall be pending or threatened against, and no order, decree or judgment of any court, agency or other governmental authority

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shall have been rendered against, any party hereto that would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms;

- (k) Seller shall have made all the Closing Deliveries required under this Agreement;
- (l) The FCC Licenses shall be in full force and effect and in good standing with the FCC; and
- (m) Seller shall have released all liens, mortgages, or other encumbrances of any type on the Assets, if any, before or at the Closing in a manner reasonably satisfactory to the Buyer.

Section 7. Conditions Precedent to Obligation of the Seller to Close.

(a) The performance of the obligations of the Seller under this Agreement is subject to the satisfaction of each of the following express conditions precedent, unless waived in writing by the Seller:

- (i) Buyer shall have performed and complied in all material respects with all of the agreements, obligations and covenants required by this Agreement to be performed or complied with by Buyer prior to or as of the Closing Date;
- (ii) The FCC Consent shall have been issued without any terms or conditions adverse to Seller; provided however, Seller waives the condition that the grant of the modification application as to Station and FCC Consent be a Final Order.
- (ii) Buyer shall have delivered to Seller on the Closing Date, the documents and/or payments required to be delivered pursuant to Closing Deliveries.

Section 8. Closing Deliveries.

At the Closing, Seller will deliver to Buyer the following, each of which shall be in form and substance reasonably satisfactory to Buyer and its counsel:

- (i) a Bill of Sale; and
- (ii) an Assignment and Assumption of the Station's Licenses and Intangible Property.

Prior to or at the Closing, Buyer will deliver to Seller the following, each of which shall be in form and substance satisfactory to Seller and its counsel:

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- (i) the Purchase Price required by Section 2 (applying a credit in favor of Buyer of the deposit specified in Section 2); and
- (ii) an Assignment and Assumption of the Station's Licenses and Personal Property.
- (c) Buyer and Seller shall also deliver such other documents at Closing as reasonably requested by the other to more fully effect or evidence the transactions contemplated by this Agreement.

Section 9. Termination. This Agreement may be terminated by either Buyer or Seller, if the party seeking to terminate is not in breach of any of its material obligations under this Agreement, upon written notice to the other of any of the following: (a) if, on or prior to the Closing Date, the other party breaches any of its material obligations contained herein, and such breach is not cured by the earlier of the Closing Date or thirty (30) days after receipt of the notice of breach from the non-breaching party (provided that Buyer's failure to pay the Purchase Price required by Section 2 shall be grounds for Seller to terminate this Agreement by written notice to Buyer, with no cure period); (b) if the Assignment Application is denied by the FCC and such denial shall have become a Final Order; (c) if Closing does not occur due to failure of or lack of fulfillment of any condition precedent to Closing of the party seeking to terminate which has not be expressly waived in writing by such party; or (d) if Closing has not occurred within 24 months of the date hereof.

Section 10. Notices. All notices, demands, requests or other communications that may be or are required to be given, served or sent by either party to the other party pursuant to this Agreement shall be in writing and shall be mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by overnight courier or hand delivery, addressed as set forth below. Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication that is mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is delivered to the addressee with the return receipt, the delivery receipt, or the affidavit of messenger being deemed conclusive evidence of such delivery or at such time as delivery is refused by the addressee upon presentation.

If to Seller, to:

Paul Scott Alexander, Jr.
74 Pardue Dr.
Valley Grande, AL 36701

If to Buyer, to:

Marble City Media, LLC
P.O. Box 629
Sylacauga, AL 35150-3530
Attn.: Frank Lee Perryman, Managing Member

Section 12. Confidentiality. Buyer agrees to keep confidential the terms of this Agreement, except with respect to any disclosure required by law or the rules and regulations of the FCC.

Section 13. Governing Law; Venue. The construction and performance of this Agreement shall be governed by the laws of the State of Alabama without regard to its principles of conflict of law. In the event of any dispute involving this Agreement or any other instrument executed in connection herewith, the parties irrevocably agree that venue for such dispute shall lie in any court of competent jurisdiction in either Tallapoosa County or Dallas County, Alabama.

Section 14. Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument.

Section 15. Expenses. Except as otherwise set forth in this Section, each party hereto shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. Buyer shall be solely responsible for any and all bulk transfer fees, transfer taxes, sales taxes or other taxes, or assessments, arising from the assignment of the Assets to Buyer. Buyer shall be responsible for any FCC application fees relating to the filing of the Assignment Application

Section 16. Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither Buyer nor Seller may assign this Agreement without the prior written consent of the other party hereto, except that Buyer may assign this Agreement to any entity under control of or common control of a Buyer, provided Buyer guarantees the performance of such entity.

Section 17. MISCELLANEOUS. (a) For purposes of this Agreement, a "Final Order" [and an FCC action which is "final" and "finality" of an FCC action] shall mean an action by the FCC: (i) that has not been vacated, reversed, stayed, set aside, annulled or suspended; (ii) with respect to which no timely appeal, timely request for stay, or timely petition for rehearing, reconsideration or review, complaint, or objection by any person or governmental entity or by the FCC on its own motion, is pending; and (iii) as to which the time for filing any such timely appeal, timely request, timely petition or for the reconsideration or review, complaint or objection by any person, entity or government entity has expired, and the time for FCC to reconsider, review or revoke the action on its own motion has expired; (b) This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreement with respect thereto whether it is in writing or otherwise, and may be amended only in writing by an instrument duly executed by both parties; and (c) Each party shall from time to time, at the request of and without further cost or expense to the other,

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execute and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate or evidence the consummation of the transactions contemplated hereby.

AS-IS. OTHER THAN AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, BUYER HEREBY ACCEPTS THE ASSETS PURCHASED PURSUANT TO THIS AGREEMENT AS-IS. AND OTHER THAN AS SET FORTH IN THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE CONDITION OR UTILITY OF THE ASSETS (INCLUDING BUT NOT LIMITED TO FITNESS FOR A PARTICULAR PURPOSE) OR OTHERWISE TO BUYER.

(Signatures to Follow)

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

Seller:

PAUL SCOTT ALEXANDER, JR.



Buyer:

MARBLE CITY MEDIA, LLC

By:



Frank Lee Perryman, Trustee under
the Frank Lee Perryman Trust dated June 17, 2010
Manager-Member



SCHEDULE 1

FCC Authorizations

FCC Licenses

CARL SCOTT ALEXANDER JR.



MARQUEE CITY MEDIA, LLC



By the undersigned, I hereby certify that the information provided herein is true and correct to the best of my knowledge and belief.

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