

**BOARD OF EDUCATION**

**Struthers City School District  
Struthers, Ohio**

**Resolution No. 126-16**

**RESOLUTION TO SELL BOARD OWNED PERSONAL PROPERTY**

WHEREAS, the Board of Education of the Struthers City School District owns assets of Radio Station WKTL-FM, 90.7MHz licensed to Struthers, OH, FCC Facility ID 4267 (the "Station"), which the Board does hereby determine exceeds in value of Ten Thousand Dollars (\$10,000.00) and which the Board hereby determines is no longer needed for school purposes; and WHEREAS, the Board desires to sell the Station pursuant to R.C. 3313.41.

NOW, THEREFORE, BE IT RESOLVED that the Station shall be sold by the Board of Education at public auction to be conducted by and under the direction of the Board of Education through solicitation or invitation by advertisement to the public for an advance in bidding using sealed bidding, such bids to be opened in public on October 7, 2016 at 1:00 P.M., after giving at least 30 days notice by publication in a newspaper of general circulation in the School District. Subject to the Board's right to reject any or all bids, the station shall be sold to the highest bidder, provided, however, no bid shall be accepted for less than the sum of Nine Hundred Thousand Dollars \$900,000.00. The successful bidder shall be required to pay the purchase price in cash at the closing of the transaction contingent upon the terms and conditions of the sale, including but not limited to approval of the Federal Communications Commission to transfer the WKTL-FM license from the School District to the Buyer.

BE IT FURTHER RESOLVED, that the Superintendent and Treasurer of the District are directed to disseminate the Invitation for Sealed Bids, a copy of which is attached hereto, to assist in answering any pre-bid questions of potential buyers, and to secure in their sealed condition each and every sealed bid received at the District office from bidders until such time as the Board shall open them on the appointed date and time referenced herein.

Mr. Ron Carcelli, moved, Mr. Walter Baber seconded that the foregoing Resolution be adopted on August 18, 2016, upon roll call vote resulting in 5 ayes and 0 nays.

# Struthers City School District

## Struthers, Ohio

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### INVITATION FOR SEALED BIDS

This Sealed Bid Auction is for the purchase of certain assets of radio station WKTL-FM, 90.7MHz, licensed to Struthers, OH, FCC Facility ID 4267 (the "Station"), owned by The Struthers City School District Board of Education (the "Seller").

The Sealed Bid openings will occur at the Seller's Offices as follows:

Date/Time: October 7, 2016 at 1:00 p.m. EDT.

The Station offering documents can be accessed by contacting Brian Rella, Treasurer of the District, at the location below.

Sealed Bids in the form of the Offer Letter (template attached hereto) and the Bid Deposit must be received at the location listed below no later than October 6, 2016 at 4:00 p.m. EDT.

Brian Rella, Treasurer  
Struthers City School District  
99 Euclid Avenue  
Struthers, Ohio 44471  
Phone (330) 750-7061  
Fax (330) 750-5516  
Email: [Brian.Rella@strutherscityschools.org](mailto:Brian.Rella@strutherscityschools.org)

This Invitation for Sealed Bids is subject to, and all bids submitted must be in compliance with, the information and terms outlined in this document.

Each bid submitted shall be deemed to have been made with full knowledge of all terms, conditions, and requirements contained in this Invitation for Bids.

#### General Information

**Bid Deposit:** \$10,000 in the form of a cashier's or certified check made payable to "Struthers City School District". A Bid Deposit is required to participate in the auction and is due at time of bid submission. No offer will be accepted without a Bid Deposit in this form and amount. Deposits will be promptly returned to unsuccessful bidders. Only the successful bidder's deposit will be retained.

Each bidder shall be required to submit a Bid Deposit, along with a self-addressed stamped envelope for the return of the Bid Deposit to rejected bidders. All Bid Deposits must be in the form of a certified check or cashier's check payable to the order of "Struthers City School District". Failure to so provide such bid deposit shall require rejection of the bid. Upon acceptance of a bid, the Bid Deposit of the successful bidder shall be applied toward payment of the successful bidder's obligation to the Seller. Only the bid deposit from the successful bidder will be retained after the Seller makes its award decision.

**Sale terms:** All cash. The successful bid for the Station's assets will be considered a continuing offer for a period of 30 calendar days from the date of receipt by the Treasurer, subject to acceptance or rejection by the Seller as set forth herein.

Contact: Please refer all technical questions and requests for additional due diligence to:

Mark Jorgenson  
Jorgenson Broadcast Brokerage, Inc.  
Phone: (828) 859-6982  
Email: [goradiotv@windstream.net](mailto:goradiotv@windstream.net)

Joseph A. Nohra, Jr., Superintendent  
Struthers City School District  
Phone: (330) 750-1061  
Email: [joseph.nohra@strutherscityschools.org](mailto:joseph.nohra@strutherscityschools.org)

## **Terms of Sale**

Bid Price: The Seller seeks to obtain fair market value for the Station and reserves the right to reject any and all bids. Only bids that meet or exceed the Seller's minimum reserve of \$900,000.00 cash will be considered.

Condition of Equipment and Furnishings: The equipment and furnishings that will convey in the sale of the Station to be sold will be sold "As Is and Where is", Bidders may inspect such equipment and furnishings prior to submitting their bid. During the period of time between obtaining a copy of the Offering Documents and Buyer's submission of this offer letter, Seller will cooperate with Buyer by making available to Buyer an inspection of the assets and the Station.

Continuing Offers: Each bid received shall be deemed to be a continuing offer after the date of bid opening or auction for thirty (30) calendar days, unless the bid is accepted or rejected by the Seller before the expiration of the 30 calendar days. If the Seller desires to accept any bid after the expiration of the 30 calendar days, the consent of the bidder shall be obtained prior to such expiration.

The Tower: The Station radio tower is located on school property owned and operated by the Seller. Bidders may bid alternately to either (1) propose to purchase the tower, then dismantle and remove it at Buyer's cost, or (2) propose to purchase the tower and to lease from the Seller the ground on which it sits, together with the transmitter room space in the school building, all under terms and conditions mutually agreeable to Buyer and Seller.

Revocation of Bid and Default: In the event of revocation of a bid after the opening of bids at sealed bid auction but prior to acceptance, or in the event of revocation of a bid after notice of acceptance, or in the event of any default by the successful bidder in the performance of the contract of sale created by such acceptance, or in the event of failure by the successful bidder to consummate the transaction, the deposit, together with any payments subsequently made on account, may be forfeited at the option of the Seller, in which event the bidder shall be relieved from further liability, or without forfeiting the said deposit and payments, the Seller may avail itself of any legal or equitable rights which it may have under the bid or contract of sale.

Offer Letter: Each prospective bidder is required to complete and execute the enclosed Offer Letter and, along with it, provide proof of funding to close on the sale. Proof of funding may be in the form of a letter of credit and/or commitment letter from a lender, which must be dated no more than 30 days from date of bid submission. Bids submitted in any other manner or which fail to furnish all information required may be summarily rejected.

Contract: The Invitation for Sealed Bids, and the bid when accepted by the Seller, shall constitute an agreement between the successful bidder and the Seller per terms of the Offer Letter. No oral statements or representations made by, or for, or on behalf of either party shall be a part of such contract. Neither the contract, nor any interest therein, shall be transferred or assigned by the successful bidder without prior written consent of the Seller, and any assignment transaction without such consent shall be void.

FCC Consent: Consistent with the rules of the FCC, the contract between the Seller and the successful bidder is contingent upon FCC approval of the License transfer and the contract requires the parties to submit an application to the FCC for consent to assignment of the license of the Station. The assignment of the Station license is subject to FCC review and approval and compliance with FCC regulations.

Notice of Acceptance or Rejection: Notice by the Seller of acceptance of a bid shall be deemed to have been sufficiently given when mailed to the successful bidder or his duly authorized representative at the address indicated in the bid documents. Notice by the Seller of rejection of a bid shall be deemed sufficiently given when the bid deposit of the rejected bidder has been mailed to the bidder at the address provided on the self-addressed envelope. The Seller's receipt of a bid deposit shall not, in itself, constitute acceptance of the bidder's offer. The Seller reserves the right to reject any or all bids or portions thereof and to

Waiver of Information or Irregularities: The Seller may also, at its election and in its sole discretion, waive any minor informality or irregularity in bids received.

Right to Cancel: The Seller reserves the right to cancel this Sealed Bid Auction at any time for any reason.

Additional Terms and Conditions.

- A. Assets. Subject to the terms and conditions set forth herein above and below, and in the Offer Letter to be submitted by the Buyer, if accepted by the Seller, the Seller hereby agrees to sell, transfer, and deliver to Buyer on the closing date, and Buyer agrees to purchase, certain tangible and intangible assets used in connection with the operations of the Station as described below (the "Assets"):
- 1) The tangible personal property attached hereto as the inventory;
  - 2) The tower either (a) to be purchased, dismantled and removed by Buyer, or (b) to be purchased by the Buyer and the ground on which it sits together with the transmitter room space in the school building to be leased by the Seller to the Buyer upon terms mutually agreeable to the parties;
  - 3) The FCC License and related authorizations;
  - 4) All of Seller's technical information and data, maps, computer discs and tapes, plans, diagrams, schematics, including filings with the FCC, all relating to the Assets;
  - 5) The call letters for the Station;
  - 6) All records required by the FCC to be kept by the Station.
- B. Closing. At closing, Buyer shall pay or cause to be paid the entire Purchase Price for the Assets to or for the account of the Seller by federal wire transfer of same-day funds pursuant to wire instructions which shall be delivered by Seller to Buyer at least 3 business days prior to the closing date.
- C. Assumption of Liabilities. As of the closing date, Buyer shall assume and undertake to pay, discharge, and perform all obligations and liabilities arising under (i) the FCC License, (ii) the Contract resulting from this transaction, and (iii) any Tower Lease negotiated by and

between the parties, each insofar as they relate to the time on and after the closing date and arise out of events related to Buyer's ownership of the assets or its operation of the Station on or after the closing date and all other obligations and liabilities of the Station or the Assets as they relate to and arise out of events related to Buyer's ownership of the assets or its operation of the Station on or after the closing date.

D. No Asset Warranties. Buyer agrees to accept the Assets "as is – where is" without any warranties.

E. Seller's Representations and Warranties. Nonetheless, Seller represents and warrants to Buyer as follows:

- 1) Seller is a political subdivision of the State of Ohio, and is a duly constituted City School District under the laws of Ohio.
- 2) The execution, delivery, and performance of the Agreement by the Seller have been duly authorized by all necessary actions on the part of the Board of Education of the Seller. This Agreement has been duly executed and delivered by Seller and constitutes the valid and binding obligation of the Seller.
- 3) Subject to obtaining the FCC consent, the execution, delivery, and performance by the Seller of this Agreement and the documents contemplated by it, do not require the consent of any third party; will not conflict with any provision of its organizational authorization; will not conflict with, result in a breach of, or constitute a default under, any law, judgment, order, ordinance, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality; will not conflict with any other contracts; and will not create any lien upon any of the assets sold hereunder.

F. Buyer's Representations and Warranties. Buyer represents and warrants to the Seller as follows:

- 1) Buyer is a corporation or limited liability company duly authorized, validly existing, and in good standing under the laws of the state in which it was incorporated or organized, and is duly qualified to conduct business as a foreign corporation or foreign limited liability company in the State of Ohio.
- 2) The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. 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.
- 3) Subject to obtaining the FCC consent, the execution, delivery, and performance by Buyer of this Agreement and the documents contemplated hereby do not require the consent of any third party; will not conflict with the organizational documents of Buyer; will not 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; 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 material agreement, instrument, license, or permit to which Buyer is a party or by which Buyer may be bound, such that Buyer could not acquire or operate the assets.
- 4) Buyer is a sophisticated broadcaster and has made the necessary due diligence

investigation of the Assets prior to submitting its sealed bid offer.

G. Interim Operation. Seller agrees that, between the date of this Agreement and the closing date, Seller shall operate the Station in the ordinary course of business consistent with past practice.

H. Governmental Approvals.

1) The assignment of the FCC License in connection with the purchase and sale of the Assets pursuant to this Agreement shall be subject to the prior consent and approval of the FCC.

2) Seller and Buyer shall promptly prepare appropriate applications for the FCC consent and shall file the applications with the FCC within 10 business days of the Notice from Seller to Buyer that Seller has accepted the sealed bid offer of Buyer. The parties shall prosecute the application with all reasonable diligence and otherwise use their best efforts to obtain a grant of the application as expeditiously as practicable.

I. Control of Station. Prior to closing, Buyer shall not, directly or indirectly, control, supervise, direct, or attempt to control, supervise, or direct, the operations of the Station, and all such operation, including complete control and supervision of all the Station's programs and policies shall be the sole responsibility of Seller until the closing.

J. 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 respective obligations under this Agreement, including obtaining any Consents, and Buyer and Seller shall execute such other documents as may be necessary and desirable to the implementation and consummation of this Agreement, and otherwise use their best efforts to consummate the transaction contemplated hereby and to fulfill their obligations under this Agreement upon acceptance of the sealed bid offer of the Buyer by the Seller.

K. Closing.

1) The Closing shall take place at time and on a date to be agreed upon by Seller and Buyer that is not later than ten (10) days after the date on which the FCC issues its final and unappealable consent to the assignment of the License from Seller to Buyer.

2) The Closing shall be held at the office of the Seller, unless the parties otherwise agree. The parties may agree to exchange signature pages of any closing documents by facsimile transmission or by email on the Closing Date. Upon completion of any such exchange and the payment of the Purchase Price, the Closing shall be deemed to have occurred, provided that each party undertakes to send to the other the originally executed signature pages to any Closing documents shortly thereafter.

L. Deliveries by Seller at Closing. Prior to or on the Closing Date, Seller shall deliver to Buyer the following, in form and substance reasonably satisfactory to Buyer and its counsel:

1) Duly executed bills of sale, assignments, and other transfer documents which shall be sufficient to vest good and marketable title to the Assets in the name of Buyer.

- 2) In the event the parties enter into a Lease Agreement applicable to the Tower and transmitter room space, then Seller shall deliver such executed Lease.
- 3) A manually executed copy of any instrument evidencing receipt of any Consent.
- 4) A certificate, dated as of the Closing Date, executed on behalf of Seller by the Treasurer of Seller, certifying that the representations and warranties of Seller contained in the Agreement are true and complete in all material respects as of the Closing Date as though made on and as of that date, and that Seller has in all material respects performed and complied with all of the obligations, covenants, and agreements set forth in this Agreement to be performed and complied with by Seller on or prior to the Closing Date.

M. Deliveries by Buyer. Prior to or on the Closing Date, Buyer shall deliver to Seller the following, in form and substance reasonably satisfactory to Seller and its counsel:

- 1) The Purchase Price as provided herein.
- 2) Appropriate assumption agreements pursuant to which Buyer shall assume and undertake to perform Seller's obligations under the FCC License and other obligations in accordance with this Agreement.
- 3) In the event the parties enter into a Lease Agreement applicable to the Tower and transmitter room space, then Buyer shall deliver such executed Lease.
- 4) A certificate, dated as of the Closing Date, executed on behalf of Buyer by an officer of Buyer, certifying that the representations and warranties of Buyer contained in this Agreement are true and complete in all material respects as of the Closing Date as though made on and as of that date, and that Buyer has in all material respects performed and complied with all of the obligations, covenants, and agreements set forth in this Agreement to be performed and complied with by Buyer on or prior to the Closing Date.

N. No Assignment. None of the parties hereto may assign this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

O. Further Assurances. The parties shall take any actions and execute any other documents that may be necessary or desirable to the implementation and consummation of this Agreement, including, in the case of Seller, any additional bills of sale or other transfer documents that, in the reasonable opinion of Buyer, may become necessary to ensure, complete, and evidence the full and effective transfer of the Assets to Buyer pursuant to this Agreement.

P. Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Ohio, and venue for any action applicable to this Agreement shall be the Court of Common Pleas of Mahoning County, Ohio.

Q. Entire Agreement. This Agreement, and all documents, certificates, and other 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 negotiations between the parties and cannot

be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and which is signed by the party against which enforcement of any such amendment, supplement, or modification is sought.

R. Counterparts. This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument.

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**The Remainder of this Page is intentionally left blank.**



## EXHIBIT A

### Inventory

<b>Asset</b>	<b>Item Make &amp; Model</b>	<b>Purchased</b>
(4) APC RBC35 Replacement Batteries	APC RBC35	2014
AT Studio Condenser Microphone	Audio Technica2035	2014
Performance Broadcast Microphone	Sennheiser E835	2013
(2) Nady Secondary Microphones	SP-R StarPower	2012
(4) Turntable Stylus & Cartridges	AT-95E Plug-In	2011
OMNIA ONE-FM On-Air Audio Processor	Telos	2009
Broadcast Tools WVRC8 Plus Trans Control	Broadcast Tools	2012
AM/FM Tuner	Realistic	2010
EAS Emergency System Alert Updater	Gorman Redlich	2012
Numark Professional Syyle Turntbale	Numark	2009
Preamp Audiophole Turntable	Rek-O-Cut	2010
Viewsonic Computer Monitor	Viewsonic	2010
Audio Processor	Innovonics	2011
Bridge-It Internet Audio Decoder	Tieline	2012
Energy Onix Internet Audio Decoder	Energy Onix	2013

## OFFER LETTER

\_\_\_\_\_, 2016

Brian Rella, Treasurer  
Struthers City School District  
99 Euclid Avenue  
Struthers, Ohio 44471

Re: Purchase of Radio Station WKTL-FM, 90.7MHz, Struthers, OH, FCC Facility ID 4267

Dear Mr. Rella:

This offer letter, submitted in reply to your "Invitation for Sealed Bids", will evidence the offer of \_\_\_\_\_ ("Buyer") to enter into a purchase agreement (the "Agreement") with The Struthers City School District Board of Education ("Seller") pursuant to which Seller will sell and transfer to Buyer, and Buyer will purchase substantially all Assets used in connection with WKTL-FM, 90.7MHz, licensed by the FCC to Struthers, OH ("Station") and owned by Seller, subject to the terms and conditions set forth herein and set forth in the Invitation for Sealed Bids..

1. **Assets.** Seller shall sell and transfer to Buyer and Buyer shall acquire from Seller good and marketable title to all of the personal, tangible and intangible Assets of Seller described in the "Invitation for Sealed Bids" that are owned and used in the operation of the Station, "as is" and "where is", (collectively, the "Assets"). The Assets shall not include the business of the Station as a going concern or cash or the equivalent on hand or in banks, accounts receivable, prepaid items or deposits. Buyer will assume no liabilities of Seller, except for any obligations specifically assumed by Buyer in writing, but only to the extent that obligations thereunder arise after the Closing. All Assets shall be sold and transferred to Buyer free and clear of all liens, mortgages and encumbrance except for any encumbrances of record which are not materially adverse to Buyer's ownership or operation of the Assets and the Station, as currently operated.

2. **Purchase Price.** Subject to the conditions herein described, Buyer will purchase the Assets for a total purchase price of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "Purchase Price") payable by wire transfer or by certified or cashier's check of immediately available funds at the Closing.

3. **Due Diligence.** Buyer has completed its due diligence with respect to the Station and Assets prior to Buyer's submission of this Offer Letter.

4. **Conditions.**

(a) This offer and Seller's acceptance of it are conditioned upon the following:

(i) The terms and conditions set forth in the Invitation for Sealed Bids and in this Offer Letter. If there is any conflict between the terms and conditions of such documents, then the terms and conditions in the Invitation to Sealed Bids shall prevail and shall serve to resolve any conflict.

(b) If this offer is accepted by Seller resulting from its public opening of this sealed bid offer, Buyer may terminate this offer in its sole discretion, but Seller shall then be entitled to keep Buyer's Bid Deposit of \$10,000.00 in the sole discretion of Seller.

**5. Closing.** The closing on the purchase and sale of the Assets (the "Closing") shall occur, subject to the fulfillment of conditions precedent, within ten (10) calendar days following the date on which the FCC's Initial Consent to the assignment of the Station's license from Seller to Buyer has been granted, or on such other date as the parties may agree hereto.

**7. Expenses.** Buyer and Seller shall bear their respective costs and expenses for attorneys, accountants, brokers and advisors retained by or representing them in connection with this transaction. Seller and Buyer shall share equally the applicable FCC filing fees for the assignment application. Seller shall pay Broker's fees to Jorgenson Broadcast Brokerage, Inc.

I look forward to proceeding expeditiously toward a transaction that we believe will be advantageous to both parties. Buyer and its counsel are prepared to move forward immediately to conclude this transaction if accepted by Seller.

Very truly yours,

\_\_\_\_\_  
Signature, Title Date \_\_\_\_\_

\_\_\_\_\_  
Print Name

Authorized Officer of Buyer, \_\_\_\_\_  
(Name of Buyer)

\_\_\_\_\_  
Accepted and Agreed to as of \_\_\_\_\_, 2016 for the Struthers City School District Board of Education

By:

\_\_\_\_\_  
Authorized Officer of Seller Date \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Authorized Officer of Seller Date \_\_\_\_\_

\_\_\_\_\_

Print Name

BOARD OF EDUCATION

Struthers City School District  
Struthers Ohio

**NOTICE OF SALE OF BOARD-OWNED PROPERTY**

Notice is hereby given by the Struthers Board of Education, Struthers, Ohio, that on October 7, 2016 at 1:00 P.M., it will open sealed bids at a public sealed bid auction of the following Board-Owned property:

The assets and license of WKTL-FM Radio Station.

Terms of the sale are cash upon terms and conditions in the Invitation for Sealed Bid, The Board reserves the right to reject any or all bids.

Interested bidders must contact the Board's Treasurer Brian Rella at (330) 750-7061 or email at [Brian.Rella@strutherscityschools.org](mailto:Brian.Rella@strutherscityschools.org) to obtain the Invitation for Sealed Bids pursuant to which all bids must be submitted to the Board. Such sealed bids must be received by the Board's Treasurer on or before 4:00 P.M. on October 6, 2016.

Board of Education of the Struthers City  
School District



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Brian Rella, Treasurer