

July 1, 2014

Office of the President
Twamley Hall Room 300
264 Centennial Drive Stop 8193
Grand Forks, ND 58202-8193
Phone: 701.777.2121
Fax: 701.777.3866

Mr. Bill Thomas
Director of Radio
Prairie Public Broadcasting
207 North 5th Street
Fargo, ND 58102

Dear Bill:


I am providing this letter to document the understanding that you and I have reached regarding implementation of certain of the undertakings under the attached contract titled, "An Agreement Between The University of North Dakota and Prairie Public Broadcasting for the Management of UND Radio, 2014-2016."

Under the Agreement:

1. UND accepts responsibility for certain operating expenses of UND Radio. You and I agree that PPB will act as UND's agent for handling receipt and payment of some of these recurring expenses.
2. UND is obligated to appoint a Chief Operator as prescribed by FCC rules. UND hereby appoints Jack Anderson, a PPB employee who, we agree, is able and willing to fulfill the responsibilities of a Chief Operator.
3. UND is responsible for conducting weekly and monthly tests of the Emergency Alert System (EAS) and UND Radio, for logging the receipt and transmission of EAS tests. We agree that John Peterson, PPB's staff member, will handle these tasks for UND Radio.

Please indicate your acceptance and agreement regarding these matters by your signature below, and return the signed copy to me for my records. Thank you.

Sincerely,



For UND Radio

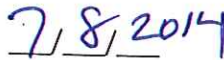


Date

ACCEPTED AND AGREED TO:



For Prairie Public



Date

**An Agreement Between
The University of North Dakota and Prairie Public Broadcasting
for the Management of UND Radio, 2014-2016**

This Agreement (hereinafter "Agreement") is entered into by and between the **University of North Dakota**, P.O. Box 8196, Grand Forks, ND 58202 (hereinafter "UND") and **Prairie Public Broadcasting, Inc.**, 207 North 5th Street, P.O. Box 3240, Fargo, ND 58108 (hereinafter "PPB").

A. Purpose:

This is an Agreement between UND and PPB for the delegation of programming and management of Stations KFJM-FM (90.7), KUND-FM (89.3) and the KUND-FM translators at K202BK, Thief River Falls (88.3) (collectively "UND Radio"), to PPB as part of the statewide public radio network. Nothing in this Agreement shall be interpreted as derogating UND's rights or responsibilities as the licensee of UND Radio.

B. Responsibilities of PPB:

1. PPB will program, manage, and operate UND Radio for UND as part of the statewide radio network. PPB's programming, management, and operation of UND Radio are subject to UND's directives as they relate to UND's duties as the FCC licensee. As provided herein, PPB will provide programming and management services required for such operation, including the production and acquisition of programming, administration of all UND Radio activities and personnel employed by PPB, employment and training for PPB personnel for the administration and operation of UND Radio, financial management, accounting services, fund-raising, engineering services, and compliance with all applicable laws and regulations. PPB will adhere to all FCC rules and policies relating to program content, including those concerning political broadcasting, indecency, and obscenity.
2. PPB will maintain and provide UND with programming and issues information relevant to the quarterly reports for the public file, which will be located on the UND campus.
3. PPB will be responsible for costs associated with the KUND-FM translator location Thief River Falls (88.3 FM).
4. PPB will not make changes to UND buildings or their infrastructures without permission from UND.

5. PPB agrees that it will coordinate with UND and seek UND's approval regarding any changes in the technical facilities of UND Radio, recommending discretionary changes for UND approval, and performing changes required by the FCC that UND has approved.
6. PPB will be responsible for routine maintenance of the UND Radio equipment. This includes, but is not limited to, translator equipment, studio equipment, and EAS equipment. PPB will make such entries as are necessary in the station logs and maintenance logs and will maintain the logs in such a manner that they can be made available to UND and the FCC upon request.
7. PPB will carry a broadcast libel insurance policy and name UND as an additional insured. Coverage may not be reduced or terminated without at least thirty (30) days prior written notice to UND.
8. PPB will make the required station identification announcements for UND Radio, and any other announcements required by the FCC. PPB agrees to include UND in every station identification given for KFJM-FM (90.7). If programming originating from UND is broadcast on all or parts of the state-wide network, UND will be included in every station identification during these broadcasts.
9. PPB acknowledges that UND holds intellectual property rights in the mark "Northern Lights Public Radio" and PPB will not call the operations of KFJM-FM (90.7) "Northern Lights Public Radio," or use the mark in any other fashion.
10. PPB will be responsible for all programming fees and music license fees associated with the operation of UND Radio. These fees include, but are not limited to, fees to the following organizations: National Public Radio, Public Radio International, American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.
11. PPB agrees to provide UND with underwriting announcements on PPB that promote UND events, activities, performances, and lectures for the term of this Agreement as outlined in Exhibit A. PPB will provide to the Television Center quarterly reports of those aired announcements with a report of listenership statistics.
12. PPB agrees to allow UND to broadcast emergency information on KFJM. To that end, PPB agrees to work with UND to maintain the protocol to broadcast this information.

C. Responsibilities of UND:

1. UND will appoint a Chief Operator for UND Radio that will fulfill the FCC obligations of a Chief Operator. UND will provide PPB with the use of, and access to, UND Radio production studio.
2. UND will provide PPB personnel with access to the radio studio.
3. UND will provide intra-campus T1 fiber and copper circuits linking the UND Radio studio to Odegard Hall.
4. UND will be responsible for all electricity costs, telephone costs (except long-distance service) at the UND studio.
5. UND will provide reasonable notification to PPB for planned power outages or other outages that will result in the loss of signals for UND Radio.

D. License Maintenance:

UND, as FCC licensee, has the ultimate responsibility for all activities associated with FCC license renewals, applications for facility changes, and such other filings and reports as may be required by the FCC. PPB, as manager, agrees to prepare all necessary FCC documents, filings, and reports for UND's review and approval so that UND may submit them to the FCC in a timely manner.

E. Budgets and Equipment:

1. PPB's fiscal year begins October 1 and ends September 30. PPB will prepare an annual budget and activities plan for UND Radio, to be reviewed annually by the PPB Advisory Council and approved by UND no later than August 31 of each year. PPB shall maintain sufficient documentation in order to demonstrate compliance with FCC rules regarding funding and operation of noncommercial educational FM Broadcast stations.
2. UND agrees to provide PPB with \$125,000 for the two-year term of this Agreement, which is effective July 1, 2014 – June 30, 2016. The payment will be made in one lump sum after UND receives a written report from PPB, as outlined in Section H, Subsection (1) of this Agreement. These funds may be used to support electrical power costs for the KUND and KFJM transmitters and for other operational costs for UND Radio.

3. UND agrees to provide PPB with an annual Federal Work Study allocation based upon PPB's compliance with all terms and conditions negotiated under a separate Agreement between UND and PPB for Federal Work Study. These funds require a twenty-five percent (25%) match by PPB.
4. All broadcast and other equipment currently owned by UND or PPB will continue to be owned and insured by the respective parties. Deductibles or other insurance payments required as a result of damage or loss by third parties shall be the responsibility of the owner of the equipment.
5. In the event of capital equipment replacement needs by UND Radio, PPB will prepare grant applications to possible funding providers and consult with UND as to equipment replacement and other equipment needs for KFJM or KUND. Any new equipment purchased by PPB, will be owned and insured by PPB on behalf of PPB. Upon termination of this Agreement, UND shall have the right to acquire any such equipment essential to the ongoing operation of UND Radio at fair market value. UND's right to acquire shall be subject to any lien rights for equipment purchased with federal grant funding. Further, upon termination of this Agreement and at the request of UND, PPB shall lease tower facilities to UND Radio at fair market value.
6. PPB shall be authorized to use UND radio equipment in fulfilling this Agreement. PPB may perform routine maintenance on UND equipment and keep UND informed about the status of equipment. Equipment may not be removed from the UND campus without approval from UND.

F. Oversight Control and Guidance:

1. PPB and UND acknowledge and agree that the operation of UND Radio in compliance with all laws, rules, and regulations of the FCC is the ultimate responsibility of UND, as licensee. Nothing in this Agreement shall be construed as limiting, transferring, assigning, or relieving UND of this responsibility. UND commits to maintain ultimate control over the finances, personnel and programming of UND Radio, as required by the Communications Act of 1934 and the FCC's rules and regulations.
2. UND will have one representative appointed to the PPB Advisory Council.
3. Notwithstanding anything to the contrary in this Agreement, as long as UND remains the licensee of UND Radio, it shall have full authority, power, and control over the operation of UND Radio; over its employees working at UND Radio; and over PPB in its role as Manager during the Term. UND shall bear the responsibility for UND Radio's compliance with all applicable provisions of any FCC rules, regulations, and all other applicable laws. PPB will also abide by all

FCC rules and regulations as they pertain to the content of the programs and any other matter required to be broadcast during the Term, including without limitation, station identification announcements and any other announcement(s). UND has the ultimate responsibility with respect to all matters in connection with submissions to the FCC, including but not limited to FCC license renewals, applications for facility changes, and such other filings and reports as may be required by the FCC. PPB shall have the responsibility to assist and advise UND in all such matters and in the preparation of all necessary documents, filings, and reports to the FCC for review and approval by UND so that UND may submit them in a timely manner. UND agrees that it will fully and in a timely manner cooperate with PPB in connection with all of the foregoing and shall designate to PPB in writing a UND representative and any successor to such representative who shall have the responsibility and authority to carry out UND's obligations under this paragraph and under this Agreement.

4. UND shall designate at least two full-time representatives, one of whom shall be a management-level employee who shall be assigned to UND Radio's Main Studio and who shall report and be solely responsible to UND.
5. UND shall continue to maintain a Main Studio, as that term is defined by the FCC, in accordance with applicable FCC rules; shall maintain its local public inspection file at the Main Studio location in accordance with the applicable FCC rules; and shall prepare and place in UND Radio's public inspection file its quarterly issues and programs list on a timely basis. Quarterly, PPB shall provide UND with a list of programs and issues to include in the maintenance of the public inspection file. UND shall also maintain control and oversee any remote control of UND Radio. PPB shall immediately serve UND with notice and copies of any letters of complaint it receives concerning any program for UND's review.
6. All fundraising activities conducted by PPB shall comply with the regulations and policies of the FCC applicable to noncommercial educational broadcast stations.

G. Term and Termination:

1. The term of this Agreement shall be from the effective date of July 1, 2014 to June 30, 2016. The term of the Agreement may be extended after review by both parties. Such review shall be completed no later than sixty (60) days before the expiration of the term.
2. Either PPB or UND may terminate this Agreement for any reason by giving at least sixty (60) days advance written notice to the other party.

3. Should UND inform PPB of circumstances of PPB's operation of UND Radio which UND, in its sole discretion, determines to be material and contrary to the best interests of UND as an FCC licensee; the public interest; FCC rules and regulations; or the Communications Act of 1934, as amended; then UND may grant PPB ten days to correct such circumstances. If PPB fails to correct such circumstances within the time allowed, UND may terminate this Agreement immediately.
4. UND may terminate this Agreement effective upon delivery of written notice to PPB, or at such later date as may be stated in the notice, under any of the following conditions:
 - a) If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow UND to perform its duties under this Agreement. The Agreement may be modified by mutual agreement of the parties in writing to accommodate a reduction in funds.
 - b) If federal or state laws, rules, or regulations are modified, changed, or interpreted in such a way that PPB's programming and management services are no longer allowable or appropriate under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
 - c) If any license, permit, or certificate required by law, rule, or regulation, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.
5. Should PPB inform UND of an action or inaction, voluntary or involuntary, or any other cause beyond PPB's reasonable control which, in PPB's sole discretion, frustrates or impedes PPB's effective management and operation of UND Radio; then PPB may grant UND ten days to rectify such action or inaction. If UND fails to rectify such action or inaction, PPB may terminate this Agreement immediately.
6. In the event of termination of this Agreement for any reason, UND shall reassume operational responsibility for UND Radio and PPB shall be relieved of all obligations of whatever nature under this Agreement except for those that have already accrued at the time of termination. If this Agreement is terminated before the end of the term, a prorated portion of any payments made by UND will be refunded to UND and the college work-study allocation will be terminated. Refunded amounts will be provided to UND within sixty (60) days of the termination of this agreement.

H. Annual Review:

1. A review of the Agreement and the services shall be made annually by designated representatives of UND and PPB. Specifically, no later than September 30 of each contract year, PPB shall provide to UND's Television Center a written report of the budget, personnel, programming, activities and accomplishments for UND Radio as part of PPB.
2. In addition to the report of the previous year's activities, this annual review between UND and PPB will include the opportunity to plan for the next year, as well as discuss any significant changes in philosophy. UND and PPB will mutually agree to the plan.

I. Sale:

Should UND decide to sell the UND Radio Stations, PPB may purchase UND-owned equipment and licenses at fair market value pursuant to state law, the State Board of Education (SBHE) and UND's surplus property policies. Otherwise, UND will sell the licenses and UND-owned equipment to any other bona fide purchaser under state law, SBHE, and UND's surplus property policies.

J. Program Service:

1. UND Radio schedules will be subject to UND's review and approval. PPB shall determine the schedules initially, and UND as a member of the Advisory Council, shall review them at the Council's quarterly meetings.
2. PPB agrees to retain the format that originated from UND on the former Northern Lights Public Radio frequency KFJM-FM (90.7). Any change in formatting will be based upon a change in audience preference or unavailability of on-air talent. Such changes will be mutually agreed upon in writing.
3. PPB agrees to include UND faculty, staff, and students in its original programming developed for the state-wide network and KFJM-FM (90.7).

K. Identification and Advertising:

UND will be identified on PPB and other media as set out in Exhibit B, which may be changed by mutual written agreement between UND and PPB at any time.

L. Liability and Insurance:

1. Each party shall be responsible for claims, losses, damages, and expenses proximately caused by the wrongful or negligent acts or omissions of that party or its agents, employees, or representatives acting within the scope of their duties. The tort liability of the University is subject to the conditions and limitations set out in chapter 32-12.2 of the North Dakota Century Code. Nothing herein shall preclude either party from asserting against third parties any defenses to liability it may have under the law or be construed to create a basis for a claim or suit when none would otherwise exist. This provision shall survive the termination of the Agreement.
2. PPB will maintain general commercial liability insurance with limits of at least \$2,000,000, with \$1,000,000 for each occurrence; employee benefits liability of at least \$1,000,000; umbrella liability of at least \$3,000,000; and media liability of at least \$3,000,000.

M. Relationship:

1. During the term of this Agreement and subject to its terms and conditions, PPB is authorized to hold itself out as the manager and operator of UND Radio. However, no partnership, joint venture, or other relationship is created between the parties that would make UND responsible for the debts and/or obligations of PPB.
2. PPB, its employees, agents, and representatives are not employees of UND for any purpose, including, but not limited to, the application of the Social Security Act, the North Dakota Unemployment Compensation Act, and the North Dakota Workers' Compensation Act. No part of this Agreement shall be construed to represent the creation of an employer/employee relationship. PPB will retain sole and absolute discretion in the manner and means of carrying out its activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

N. Notices:

Any written notice to any party required or permitted under this Agreement shall be deemed to have been duly given on the date of personal service on or three days after the date the notice is placed in the mail to the party to whom notice is to be given, and shall

be addressed to the addressee at the address stated below, or at the most recent address specified by written notice under the provision.

If to PPB:

Bill Thomas, Director of Radio
Prairie Public
207 N 5th Street
Fargo, ND 58102

If to UND:

Julie A. Evans
O'Kelly Hall, Room 104
221 Centennial Drive Stop 8196
Grand Forks, ND 58202-8196

The provisions of this section do not supersede any statutes or rules of court regarding notice of claims or services of process. In the event of a conflict between this section and any statutes or rules of court, the statutes or rules of court govern.

O. Severability:

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, the same shall not affect in any respect whatsoever the validity of any other provisions of this Agreement.

P. Assignment:

This Agreement may not be assigned by either party without the other party's consent in writing. Such consent may be given or withheld in the sole discretion of either party. Any attempted assignment without such consent shall be cause for immediate termination of the Agreement by the other party.

Q. Force Majeure:

Neither party shall be held responsible for any delay or failure in performance hereunder caused in whole or in part by: fires; strikes; floods; embargoes; labor disputes; delays or failures of subcontractors; acts of sabotage; riots; accidents; delays of carriers or suppliers; voluntary or mandatory compliance with any governmental act, regulation, or request; acts of God or by public enemy; or acts, omissions or other causes beyond such party's control or without the fault or negligence of the party; provided, however, that the affected party shall have given the other party prompt notice in writing of the delay or failure in performance.

R. Governing Law:

This Agreement shall be construed and governed and enforced in accordance with the laws of the State of North Dakota. Further, the venue of any legal proceedings shall be in Northeast Central Judicial District, Grand Forks County, State of North Dakota.

S. Entire Agreement:

This Agreement and exhibit constitutes the entire understanding of the parties and supersedes all prior agreements, written or oral, and may only be amended by the parties in writing.

T. Waiver:

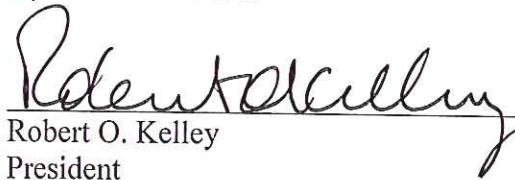
Failure or refusal by either party to insist on the strict performance of any provision of this Agreement or to exercise any right in any one or more instances or circumstances shall not be construed as a waiver or relinquishment of such provision or right, nor shall such failure or refusal be deemed a custom or practice contrary to such provision or right.

U. PPB acknowledges that if requested, it will comply with an audit of operations by the state of North Dakota, as is routine for state agencies.

UND:

University of North Dakota

By:


Robert O. Kelley

7/8/14
Date

Its: President

PPB:

Prairie Public Broadcasting

By:


John E. Harris III

7/18/14
Date

Its:

President & CEO

EXHIBIT A:
UND Aid and Underwriting Announcements

- A. During the term of this Agreement and subject to the expressed terms of this Agreement, UND will allow PPB to use the following assets:
- 1) studio equipment, utilities, building space, custodial services, and building and parking lot maintenance;
 - 2) licenses for UND Radio; and
 - 3) if approved by the UND Federal Work Study Committee and PPB complies with terms and conditions in the separate agreement between UND and PPB for a Federal Work Study Allocation, a work study allocation.
- B. In exchange for the annual value of UND assets, PPB will guarantee that UND will receive at least eight (8) underwriter announcements every week on the statewide network. PPB agrees that:
- 1) information for the announcements will be provided to PPB by the UND Office of University Relations;
 - 2) placement of announcements will be determined mutually by PPB and UND personnel; and
 - 3) announcements may be updated on a weekly basis.

EXHIBIT B: Identification and Advertising

UND will be identified as follows:

- A. Network On-air, for the period of this Agreement: Twenty-two (22) times per day (with spots evenly distributed among the total number of network identifications). Unless mutually agreed otherwise, the network identification will air as follows:

“You are listening to Prairie Public, a news, information and music service provided by Prairie Public Broadcasting in association with the University of North Dakota and North Dakota State University.”

“You are listening to Prairie Public, a news, information and music service provided by Prairie Public Broadcasting in association with North Dakota State University and the University of North Dakota.”

- B. Legal On-air ID, KUND, for the period of this Agreement: The order in which the stations are read will vary periodically. The following will be broadcast hourly:

“You are listening to KUND-FM, Grand Forks; KDSU-FM, Fargo; KCND-FM, Bismarck; KDPR-FM, Dickinson; KPPR-FM, Williston; KMPR-FM, Minot; and KPRJ-FM, Jamestown.”

- C. Legal On-air ID, KFJM, for the period of this Agreement: The following announcement may be modified by adding other stations, as appropriate, when the network configuration changes:

“This is KFJM-FM, 90.7, broadcasting from the campus of the University of North Dakota, in cooperation with Prairie Public.”

- D. Print newsletters, press releases, brochures, advertisements, etc.:
In a format appropriate to the medium, all such materials will identify PPB as a “news, information, and music service provided by Prairie Public Broadcasting in association with the University of North Dakota and North Dakota State University.”

- E. Web pages and Internet materials:
In a format appropriate to the medium, all Web pages and Internet materials will identify PPB as a “news, information, and music service provided by Prairie Public Broadcasting in association with the University of North Dakota and North Dakota State University.”