

## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** (this “License”) is made effective as of the \_\_\_\_ day of March, 2019 (the “Effective Date”), by and between BALDWIN COUNTY BOARD OF EDUCATION, an agency of the State of Alabama (“Licensor”) and the CITY OF ORANGE BEACH, ALABAMA an Alabama municipal corporation (“Licensee”).

In consideration of the mutual promises, covenants and agreements set forth herein, the parties hereto do hereby agree as follows:

**1. AGREEMENT TO LICENSE.** Licensor grants to Licensee the exclusive right of possession, occupancy and use with respect to that certain land located in the City of Orange Beach, Baldwin County, Alabama and more particularly described on Exhibit A attached hereto and made a part hereof (the “Land”), together with all buildings and other improvements now located, or hereafter erected, on the Land, together with all fixtures now or in the future installed or erected in or upon the Land or on any such improvements (the “Improvements”) (the Land, the Improvements, and all rights, privileges, easements, and appurtenances to the Land, the “Premises”). The license granted hereunder is coupled with an interest.

**2. TERM.** The term of this License shall commence as of the Effective Date, and shall continue for a period of ninety-nine (99) years thereafter, subject to earlier termination as herein provided. Licensor shall have the right to terminate the license granted hereunder, in whole or in part, should Licensor require, in its reasonable discretion, all or a portion of the Premises, for strictly educational building purposes (i.e., facilities wherein primary educational functions will be implemented). Only so much of the Premises as is needed for such functions will be subject to early termination, with the license hereunder remaining in place as to the remainder of the Premises. Upon any such determination of early termination by Licensor, Licensor shall afford Licensee at least one hundred twenty (120) days advance notice of termination. If the termination is for a part, rather than the whole, of the Premises, Licensor, at its expense, shall engage a surveyor to establish the lines of demarcation for the portion of the Premises which is being eliminated from this License and the portion of the Premises which would remain subject to this License. Licensee shall have the right, at any time, without cause, to terminate this License, by affording Licensor at least thirty (30) days advance notice of termination.

**3. LICENSE FEE.** Licensee shall pay a fixed license fee to Licensor in the amount of \$100 per year, payable in advance.

**4. RIGHT-OF-WAY.** Licensee shall have the right, at its expense, to establish a right-of-way within the Premises for ingress and egress for vehicular and pedestrian traffic and for utilities (the “Right-of-Way”), and to construct, grade and pave a street therewithin, generally running east to west, in such exact location as Licensor and Licensee shall mutually agree in the exercise of good faith. In such event, Licensee shall have such Right-of-Way surveyed and shall furnish a copy of the survey to Licensor. Licensee shall have the right, at its option, to dedicate the Right-of-Way as a public municipal street. Upon any such dedication, the Right-of-Way and

all title thereto shall be vested in the Licensee (in its municipal capacity) as a public municipal street. Licensee (in its municipal capacity) shall have the right to establish such restrictions, barriers, curb cuts, access points and other roadway attributes associated with the Right-of-Way and the street therewithin as it shall determine appropriate. Licensors agree to cooperate and join in the dedication of the Right-of-Way upon request by Licensee, and to execute and deliver such instruments of dedication and conveyance as may be reasonably requested by Licensee in order to effectuate the public dedication of the same. Upon any such dedication, title to the Right-of-Way (including the street therewithin) shall be eliminated from the license granted hereunder, and title to the Right-of-Way (and the street therewithin) shall be vested in the Licensee (in its municipal capacity), free and clear of any claims of ownership by Licensors and free and clear of the license hereunder. Licensors shall cause the dedication and conveyance of the same to be free and clear of any liens or encumbrances in favor of any person claiming by, through or under Licensors.

**5. UTILITIES.** Licensee will pay all utility services that Licensee uses on the Premises. If and to the extent that utility access is needed from Licensors' adjacent property to the north of the Premises, Licensors agree to cooperate with Licensee in obtaining all necessary utility access to the Premises and to grant such easements as are reasonably necessary to achieve the same.

**6. USE.** Licensee shall have the right to use the Premises for any legally permitted purpose, so long as such use does not interfere with the operations of Licensors' school facilities located on Licensors' property to the north of the Premises.

**7. CONSTRUCTION, DEMOLITION AND ALTERATIONS.** Licensee may, at its sole option and at its cost and expense, make any additions, replacements, changes, alterations, installations, repairs or improvements to the Premises, and may construct, demolish or remove any structures or improvements on the Premises as it may desire. Any Improvements existing as of the Effective Date together with any alterations thereto shall be and remain the property of the Licensors throughout the term of the License. Any Improvements constructed subsequent to the Effective Date and any alterations thereto (collectively, "New Improvements") shall be and remain the property of the Licensee throughout the term of this License.

**8. END OF TERM.** Upon the expiration or sooner termination of this License, (i) Licensee will surrender the Premises (or the portion thereof so terminated) and will remove therefrom any trade fixtures, equipment or other personal property owned by Licensee, and (ii) all New Improvements (other than the street and related infrastructure within the Right-of-Way, if applicable) on the Land (or the portion thereof subject to termination) shall become the property of Licensors at no cost to Licensors, on an "as is" basis, without representation or warranty by Licensee.

**9. EVENTS OF DEFAULT.** The following occurrences are each an "Event of Default" on the part of Licensee: (a) Licensee shall fail to pay the annual license fee when and as due, and the default continues for ten (10) days after written notice from Licensors; or (b) Licensee breaches any of the other agreements, terms, covenants, or conditions that this License requires Licensee

to perform, and the breach continues for a period of ninety (90) days after written notice by Licensors to Licensee.

**10. REMEDIES.** Upon the occurrence of an uncured Event of Default, then Licensors may, as its sole and exclusive remedy, terminate this License, in which event, Licensee shall promptly surrender possession of the Premises to Licensors.

**11. COVENANT OF QUIET ENJOYMENT.** Licensee's possession of the Premises will not be disturbed by Licensors or any person claiming by or through Licensors.

**12. LIABILITY OF LICENSOR.** Licensors shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Premises by Licensee, its agents, employees or invitees or caused by or arising from any act or omission of Licensee, or any of its agents, employees or invitees, unless such loss, damage or injury is a result of the gross negligence or willful misconduct of Licensors.

**13. INSURANCE.** To the extent that Licensee has an insurable interest therein, Licensee shall obtain and keep in force "all risk" coverage insurance in the customary form in the vicinity where the Premises is located insuring the replacement value of the Improvements. Licensee will obtain and keep in force during the term hereof, commercial general liability insurance with a combined single limit of not less than Five Hundred Thousand Dollars (\$500,000.00), with respect to the use or occupancy of the Premises.

**14. COUNTERPARTS.** This License may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**15. RECORDING.** Either party may record this License at its expense.

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**IN WITNESS WHEREOF**, Licensor and Licensee have caused this License Agreement to be duly executed by its duly authorized representative effective as of the Effective Date.

**LICENSEE:**

CITY OF ORANGE BEACH, ALABAMA

By: \_\_\_\_\_  
Tony Kennon  
Its Mayor

**LICENSOR:**

BALDWIN COUNTY BOARD OF EDUCATION

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

[ACKNOWLEDGMENTS ON FOLLOWING PAGE]

STATE OF ALABAMA     )  
BALDWIN COUNTY        )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Tony Kennon, whose name as Mayor of the CITY OF ORANGE BEACH, ALABAMA, an Alabama municipal corporation, is signed to the foregoing License Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said License Agreement, he, as such Mayor and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand and official seal, this the \_\_\_\_ day of March, 2019.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

STATE OF ALABAMA     )  
BALDWIN COUNTY        )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of the BALDWIN COUNTY BOARD OF EDUCATION, an agency of the State of Alabama, is signed to the foregoing License Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said License Agreement, he, as such \_\_\_\_\_ and with full authority, executed the same voluntarily for and as the act of said board of education.

Given under my hand and official seal, this the \_\_\_\_ day of March, 2019.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

## **EXHIBIT A**

### Description of Premises

THE SOUTH 300 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 9 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA, LESS 14.00 FEET OFF THE EAST SIDE FOR ADDITIONAL RIGHT OF WAY TO WILLIAM SILVERS PARKWAY RIGHT OF WAY (74 FEET). BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN 1/2 INCH REBAR MARKING THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 9 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA THENCE ALONG THE EAST LINE OF SECTION 1, RUN NORTH 00°00'27" EAST, 1326.97 FEET TO A POINT ON THE WEST RIGHT OF WAY OF WILLIAM SILVERS PARKWAY (60' RIGHT-OF-WAY); THENCE LEAVING THE EAST LINE OF SECTION 1, RUN SOUTH 89°45'48" WEST, 14.00 FEET TO CAPPED RE-BAR SET (CRS) LS 13918 AT THE POINT OF BEGINNING. THENCE LEAVING THE POINT OF BEGINNING, CONTINUE SOUTH 89°45'48" WEST, 1389.72 FEET TO A CRIMPED TOP IRON ON THE EAST RIGHT OF WAY OF SWEETWATER DRIVE, THENCE ALONG THE EAST RIGHT OF WAY OF SWEETWATER DRIVE, RUN NORTH 00°01'30" EAST, 300.00 FEET; THENCE, LEAVING SAID RIGHT OF WAY, RUN NORTH 89°45'48" EAST, 1389.62 FEET TO THE PROPOSED WEST RIGHT OF WAY (74 FEET WIDE) OF WILLIAM SILVERS PARKWAY; THENCE ALONG SAID PROPOSED WEST RIGHT OF WAY, RUN SOUTH 00°00'27" WEST, 300.00 FEET TO THE POINT OF BEGINNING.

### LESS AND EXCEPT:

LOT 1, CROWN COMMUNICATIONS TOWER SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA ON SLIDE NO. 2057-C

### SUBJECT TO:

ACCESS AND UTILITY EASEMENT, AND THE RIGHTS OF OTHERS IN AND TO ITS USE, AS SET OUT IN THAT MEMORANDUM OF LEASE AGREEMENT BY AND BETWEEN THE CITY OF ORANGE BEACH AND CROWN COMMUNICATION, INC., DATED APRIL 11, 2001, RECORDED OCTOBER 18, 2001, AS INSTRUMENT NUMBER 622313, AND AGREEMENT AND MEMORANDUM OF FIRST AMENDMENT TO LEASE AGREEMENT, DATED NOVEMBER 15, 2010, RECORDED JUNE 13, 2011, AS INSTRUMENT NUMBER 1290454, AND AS SHOWN ON SUBDIVISION PLAT RECORDED ON SLIDE 2057-C.