**MEMORANDUM OF AGREEMENT**
**AMONG**
**THE FEDERAL COMMUNICATIONS COMMISSION,**
**THE GEORGIA STATE HISTORIC PRESERVATION OFFICER,**
**AND**
**BULLIE BROADCASTING CORPORATION**
**REGARDING THE CONSTRUCTION OF A BROADCASTING STRUCTURE**
**AT 11100 SUNBURY ROAD, CLAXTON, EVANS COUNTY, GEORGIA**

**WHEREAS,** Bullie Broadcasting Corporation ("Bullie Broadcasting") proposes to construct a 828-foot guyed-wire broadcasting structure at 11100 Sunbury Road, Claxton, Evans County, Georgia (with coordinates of N 32° 07' 29.0" and W 081° 49' 02.0"); and

**WHEREAS,** the Federal Communications Commission ("FCC") or ("Commission") has determined that construction of the tower is a federal undertaking; and

**WHEREAS,** Bullie Broadcasting, pursuant to delegation from the FCC, initiated the National Historic Preservation Act ("NHPA") Section 106 review for the site as required by the FCC rules, 47 C.F.R. § 1.1307(a)(4); and

**WHEREAS,** Bullie Broadcasting has consulted with the State Historic Preservation Office for the State of Georgia ("Georgia SHPO"), pursuant to 36 C.F.R. Part 800 and the FCC regulations implementing Section 106 of the NHPA; and

**WHEREAS,** the Georgia SHPO has determined that the tower construction would have an adverse effect on Resource F-72, a house located on CR 204 (Sunbury Road), which the Georgia SHPO considers to be eligible for listing in the National Register of Historic Places; and

**WHEREAS,** Bullie Broadcasting, consistent with the Commission's requirements for environmental review, has considered and evaluated a number of alternative sites for locating the proposed tower and has concluded that all of the sites considered are either unavailable for their use, or are unsatisfactory from a technical radio frequency perspective for the coverage needs of the broadcasting system supported by the antennas to be located on the facility; and

**WHEREAS,** members of the general public and other interested parties were afforded a 30-day comment period as an opportunity to participate in and comment on this proceeding through publication of a legal notice in *The Claxton Enterprise*, published on January 10 and 16, 2010, and notices submitted to the City of Claxton, Evans County, the Heart of Georgia Altamaha Commission, and the Georgia Historical Society dated December 31, 2009; and

**WHEREAS,** although the other interested parties included the City of Claxton, Evans County, the Heart of Georgia Altamaha Commission, and the Georgia Historical Society and they were invited to review, comment, and sign the MOA as a "Concurring Party" none of the consulting parties expressed an interest in signing the MOA; and

**WHEREAS,** Bullie Broadcasting has made a reasonable and good faith effort to identify and contact Native American Tribes that might attach religious or cultural significance to historic properties within the Area of Potential Effects ("APE"), including the Cherokee Nation, Kialegee Tribal Town, Muscogee (Creek) Nation, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, and Thlopthlocco Tribal Town; and

**WHEREAS,** the Advisory Council on Historic Preservation ("Advisory Council") has been notified of the adverse effect determination with specified documentation and has chosen not to participate in the consultation; and

**NOW THEREFORE,** the FCC, the Georgia SHPO, and Bullie Broadcasting agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties and that these measures shall constitute full complete, and adequate mitigation under NHPA and the implementing regulations of the Advisory Council and the FCC.

**STIPULATIONS**

The FCC, through coordination with Bullie Broadcasting will ensure that the following measures are carried out:

## I. MITIGATION OF ADVERSE EFFECTS

Prior to the implementation of any physical construction activities undertaken for the erection of the proposed tower at 11100 Sunbury Road, Claxton, Evans County, Georgia, the permit applicant, or a qualified consultant representing the applicant, shall complete and provide the Georgia SHPO with a Georgia Historic Resources Form ("Resource Form") for Resource F-72.

A qualified architectural historian will record the main residential building and associated outbuildings of Resource F-72 through digital photography and the completion of an appropriate Resource Form. Both the interior and exterior views of the main residential building and the associated outbuildings will be documented. The photography will comply with the Georgia SHPO "Guidelines for Establishing a Photographic Permanent Archival Record," May 26, 2009. After Bullie Broadcasting provides the Resource Form to the Georgia SHPO, the Georgia SHPO will expeditiously review the Resource Form and will let Bullie Broadcasting know in writing that it either: (1) accepts the Resource Form; or (2) objects to the Resource Form and provides the basis for its objection.

Bullie Broadcasting will not proceed with constructing the proposed site until all of the following have occurred: (1) the Resource Form for Resource F-72 is provided to the Georgia SHPO; (2) the Georgia SHPO accepts, in writing, the Resource Form; and (3) the FCC has approved an Environmental Assessment filed by Bullie Broadcasting for the site.

## II. REMOVAL

In the event that Bullie Broadcasting or its successor(s) abandons the broadcasting structure and associated facilities described herein, Bullie Broadcasting or its successor(s) shall disassemble the tower and associated facilities and notify the Georgia SHPO.

## III. DISPUTE RESOLUTION

Should the Georgia SHPO and Bullie Broadcasting not be able to resolve within fourteen (14) days any written objection raised by the Georgia SHPO related to the Resource Form prepared for Resource 72 pursuant to this agreement, the FCC shall consult with the Georgia SHPO to resolve the objection. If the FCC determines that the objection cannot be resolved, the FCC shall request further comments or recommendations of the Advisory Council concerning the dispute pursuant to 36 C.F.R. Part 800. Any Advisory Council comment provided in response to such a request will be taken into account by the FCC in accordance with 36 C.F.R. Part 800 with reference only to the subject of the dispute. In the event there is a dispute, the FCC will continue to coordinate with Bullie Broadcasting to make sure that Bullie Broadcasting's obligations, which are not affected by the dispute, will continue to be carried out.

## IV. ENFORCEMENT

Failure to carry out the terms of this MOA will require that the FCC again request the comments of the Advisory Council, in accordance with 36 C.F.R. Part 800. If the terms of this MOA are not implemented, the FCC shall provide the Advisory Council with the opportunity to comment on the effects and mitigation alternatives.

## V. OTHER REQUIREMENTS

Bullie Broadcasting will file with the FCC an application and Environmental Assessment within fifteen (15) days of the effective date of this MOA.

Execution of this MOA and implementation of its terms evidence that the FCC has afforded the Advisory Council a reasonable opportunity to comment on the Bullie Broadcasting broadcast structure and that the FCC has taken into account the effects of this undertaking on the historic property. The terms of this agreement shall be carried out within 120 days of the last signatory, unless the FCC, the Georgia SHPO, and Bullie Broadcasting agree in writing to an extension for carrying out terms. This MOA shall be effective upon notice from the FCC that all parties have agreed to and signed this MOA.

## VI. COUNTERPART SIGNATURES

Bullie Broadcasting and the Georgia SHPO agree that this MOA may be signed in counterpart.

**FEDERAL COMMUNICATIONS COMMISSION**

By: _____ Date: 6/6/11

Michael F. Wagner
Assistant Chief, Audio Division
Media Bureau
Federal Communications Commission

**THE GEORGIA STATE HISTORIC PRESERVATION OFFICER**

By: _____ Date: 6 JAN. '11

Dr. David Crass
Division Director and Deputy State Historic Preservation Officer

**BULLIE BROADCASTING CORPORATION**

By: _____ Date: 12/22/00

John Willis
Vice-President