

**DIRECT SUPPORT ORGANIZATION
AFFILIATION AGREEMENT**

THIS DIRECT SUPPORT ORGANIZATION AFFILIATION AGREEMENT (the "Agreement") is entered into and made effective on this 17 day of November, 2016, by and between **THE DISTRICT BOARD OF TRUSTEES OF PENSACOLA STATE COLLEGE, FLORIDA** (the "College"), a political subdivision of the State of Florida with its mailing address at 1000 College Boulevard, Pensacola, Florida 32504, and **WSRE-TV FOUNDATION, INC.** (the "Foundation"), a Florida corporation not-for-profit with its mailing address at 1000 College Boulevard, Building 23, Pensacola, Florida 32504.

I. Preliminary Statement

Florida Statutes Section 1004.70 provides for the creation of a direct support organization ("DSO") where an entity is to be organized and operated exclusively to receive, hold, invest and administer property and to make expenditures to, or for the benefit of, a Florida College System institution. In addition, this statute allows a College's Board of Trustees to permit the use of College property, facilities, and personal services to assist the DSO in its mission of supporting the College. In order to establish the working relationship between the College and the Foundation, and to delineate the functions of each, the parties have entered into this Direct Support Organization Affiliation Agreement.

II. Organization of the Foundation

The College has an oversight responsibility for the Foundation because it is a supporting organization of the College. In order to fulfill this responsibility, the College requires the Foundation to be properly organized and to meet the minimum standards and requirements set forth in this Agreement.

- A. **Purpose.** The Foundation is hereby recognized as a Pensacola State College DSO because it will use the property, facilities, personal services and name of the College for the purpose of receiving, holding, investing and administering assets and property and making expenditures for the benefit of the College.
- B. **Incorporation.** The Foundation shall be, and at all times shall remain, a Florida not-for-profit corporation organized under the provisions of Chapter 617 of the Florida Statutes.
- C. **Tax-Exempt Status.** The Foundation shall be, and at all times shall remain, exempt from federal and state taxes. Exemption from federal taxation is not automatic, therefore, the Foundation must qualify as a tax-exempt organization (typically referred to as a "501(c)(3) organization") by making application to the Internal Revenue Service and maintaining such tax-exempt status at all times.
- D. **Articles of Incorporation.** The Foundation must have on file with the Florida Secretary of State such Articles of Incorporation as are required by the provisions of Chapter 617, Florida Statutes.

The Foundation's stated purpose for which it is organized shall be to support and benefit Pensacola State College.

- E. **Bylaws.** The day-to-day governance of the Foundation's corporate affairs shall be provided in its bylaws. The bylaws must contain provisions dealing with the membership of its governing board, meeting requirements, and duties of its board members.

III. Management of the Foundation

- A. The Foundation Board of Directors shall be responsible for the control and management of the Foundation's assets, consistent with Florida law. The Foundation Board shall also be responsible for the prudent management of all gifts consistent with donor intent, provided that such intent is consistent with the goals of the College and in the best interest of the State, and will not otherwise conflict with applicable law.
- B. The Foundation Board of Directors shall be responsible for the performance and oversight of its operations, based on bylaws that clearly address the Board's responsibilities and expectations regarding conflicts of interest.
- C. The Chair of the College's Board of Trustees, or the Chair's designee, shall serve as a Director on the Foundation's Board. Furthermore, the President of Pensacola State College or his designee shall also serve as a Director in the Foundation's Board.
- D. The Executive Director of the Foundation, reporting to the President of the College, is responsible for all activities related to soliciting private support, establishing productive relationships with external groups, reporting of gifts and Foundation development.
- E. The College recognizes that the Foundation bears the major responsibility for private sector fundraising. College representatives will coordinate fundraising initiatives, including major gift solicitations, with the Foundation.
- F. The College President will assume a prominent role in fundraising, and work in conjunction with the leadership of the Foundation Board and the Foundation Executive Director to identify, cultivate and solicit prospects for private gifts.

IV. Foundation Employees

All full-time employees of the Foundation shall be regular employees of Pensacola State College entitled to participate in the State of Florida Retirement System and receive all of the other fringe benefits available to Pensacola State College employees allowed by law and approved by the College's Board of Trustees. As College employees they will be evaluated and compensated as deemed appropriate by the President of the College and subject to all of the College's policies and procedures, and requirements of Florida law for public employees.

V. Liability

The College and the Foundation are separate and distinct legal entities, and nothing in this agreement is intended to create or constitute a joint venture, partnership, agency, trust, or other association of any kind between the parties or persons referred to herein. Except as otherwise provided herein, no party shall have any right, power, or authority to create any obligation, express or implied, on behalf of any other party; provided however, that the Executive Director of the Foundation may bind the Foundation when acting within the scope of his or her authority as delegated by the Foundation's Board of Directors. In all matters relating to this agreement each party hereto shall have sole liability for its own acts. The Foundation shall be responsible for the acts of its Board of Directors, and the College shall be responsible for the tortious acts of the College's employees assigned to work for the Foundation when acting within the scope of their duties as an employee. The maximum limit of the College's liability shall be those limits set forth in Section 768.28, Florida Statutes, and nothing in this agreement shall be construed as a waiver of sovereign immunity beyond the limits in that statute.

VI. Foundation Responsibilities

- A. **Fundraising.** The College's priorities and long-term plans related to its mission, consistent with the guidance of the College's Board of Trustees, will be communicated by the President of the College to the Foundation at Foundation meetings. The Foundation Board agrees to conduct its fund-raising activities in a manner that furthers the mission of the College regarding the operation of WSRE-TV.

The Foundation Executive Director, in consultation with the College President and Foundation Board, is responsible for planning and executing comprehensive fundraising and donor-acquisition programs in support of the College's mission. These programs include, but are not limited to, annual giving, major gifts, planned gifts, special projects, and private foundation solicitations, as appropriate.

The Foundation will establish, adhere to and annually assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the Foundation and the College, and provide appropriate recognition and stewardship of such gifts. The Foundation shall also establish and enforce policies to protect donor confidentiality consistent with law.

- B. **Asset Management.** The Foundation will establish asset allocation, disbursement and spending policies that support the College's mission and objectives developed by the Board of Trustees and in compliance with applicable federal and state laws.

The Foundation will receive, hold, manage, invest and disperse contributions of cash, securities, patents, copyrights and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred gift instruments, exclusively for the benefit of the College.

C. **Audits.** The Foundation will engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records, in accordance with rules adopted by Florida's Auditor General. The Foundation will submit the annual audit report within six (6) months of the end of the fiscal year which it covers to the College for approval by the College's Board of Trustees. The College's Board will then submit the annual audit report to the State Board of Education. The audit shall also be made available to the Auditor General of the State of Florida. The College's Board of Trustees, as well as the Auditor General and other applicable entities may require and receive from the Foundation and its independent auditor any data or supplemental data related to the operation of the Foundation.

D. **Transfer of Funds.** The Foundation is the primary depository of private gifts and will transfer funds to the College in compliance with applicable laws, College policies and gift agreements.

When distributing gift funds to the College, the Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. The College will abide by such restrictions, provided that they are consistent with applicable law and College policies established by the Board of Trustees. The College will also provide appropriate documentation as required.

The Foundation's disbursements to and or on behalf of the College must be for the benefit of the College, and consistent with applicable law, donor intent and College policies established by the Board of Trustees.

E. **Access to Data.** The Foundation will provide access to data and records to the College for College purposes, as permitted by donors or required by law. The Foundation shall make available upon request all public records as required by Chapter 119, Florida Statutes, to the extent that they are not made exempt from disclosure or confidential by other provisions of the law.

VII. **Foundation Name and Logo**

Consistent with its mission to operate for the benefit of the College, the Foundation is granted permission to incorporate the name Pensacola State College or WSRE-TV into its own name. The Foundation has the authority to use the College's name and logo and other identifying marks in furthering its role as a direct support organization of the College, for as long as it operates in a manner consistent with the goals of the College and in the best interest of the State of Florida.

VIII. **Decertification**

At any time the President of the College may recommend to the BOT that the Foundation be decertified as a DSO if the President determines that the Foundation is no longer operating for the benefit of the College, the tax-exempt status of the Foundation has been revoked by the Internal Revenue Service, or

the Foundation has persistently failed to materially comply with applicable laws, rules, or this operating memorandum.

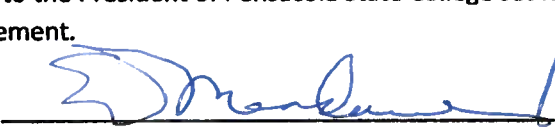
IN WITNESS WHEREOF, the parties have cause this Direct Support Organization Affiliation Agreement to be executed by their duly authorized officers.

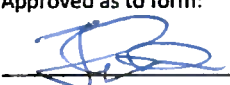
**THE DISTRICT BOARD OF TRUSTEES
OF PENSACOLA STATE COLLEGE, FLORIDA**

By: 
Chair, PSC Board of Trustees

WSRE-TV FOUNDATION, INC.
By: 
President, WSRE-TV Foundation

I HEREBY AGREE to perform the duties assigned to the President of Pensacola State College set forth in this Direct Support Organization Affiliation Agreement.


C. Edward Meadows

Approved as to form:

Thomas J. Gilliam, Jr., General Counsel
for Pensacola State College