

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE UNIVERSITY OF WEST FLORIDA FOUNDATION, INC.
Board of Directors
AND
THE UNIVERSITY OF WEST FLORIDA
Board of Trustees**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), is entered into this ninth day of June, 2006, by and between the University of West Florida Board of Trustees (“the University”) and the University of West Florida Foundation, Inc. (“UWF Foundation” or “the Foundation”).

Recitals

The UWF Foundation was organized and incorporated in 1965 for the purpose of stimulating voluntary private support from alumni, parents, friends, corporations, foundations, and others for the benefit of the University of West Florida.

The UWF Foundation exists to encourage, manage and administer private resources to support the mission and priorities of the University of West Florida, as established by the Board of Trustees and the President of the University of West Florida.

The Foundation is dedicated to assisting the University in the building of the endowment and in addressing, through financial support, the long-term academic and other priorities of the University and to provide opportunities for students and a margin of institutional excellence unavailable with state funds.

The Foundation is a not for profit corporation under the provisions of Chapter 617 of the Florida Statutes, and qualifies under IRC §501(c)(3) for tax purposes. The UWF Foundation has responsibility to encourage, manage and administer gifts and bequests of property and funds for scientific, educational and charitable purposes, all for the advancement of the University of West Florida and its objectives; to promote and support education; to provide funds which are not provided from public sources for use in the furtherance of the educational mission and welfare of the University of West Florida, its faculty and students and educational facilities, including dormitories; and to do and perform any acts and expend its funds in a manner consistent with the spirit and intent of its donors. Moreover, in accordance with the Bylaws, Board members of the Foundation have responsibility to maintain knowledge of the University of West Florida’s mission, programs, resources, and needs, to serve as effective University spokespersons in the community; to assist the President and Foundation staff in establishing and maintaining a favorable climate for giving; to participate actively in the fund raising programs of the Foundation through attendance at meetings and by providing personal financial support of the University on a regular basis; to review and approve the Foundation’s annual operating budget; and to determine investment goals and objectives of the Foundation’s investments.

Furthermore, in connection with its fund-raising and asset-management activities, the Foundation assists with funding of personnel experienced in planning for and managing private contributions and works with the University to assist and advise in such activities.

Agreement

In consideration of the mutual commitments herein contained, the parties agree as follows:

Use of University Name, Seal and Logotype

Consistent with its mission to help to advance the plans and objectives of the University, the Foundation is granted the use of the name, University of West Florida. Furthermore, by mutual agreement, the Foundation may utilize the University's seal or other identifying marks in the promotion of its business and activities.

Institutional Governance

The University of West Florida Board of Trustees is responsible for the effective governance of the University of West Florida including setting the strategic mission and vision; employment and compensation of the University President; ensuring adequate resources and fiscal prudence; and ensuring quality academic programs that meet the needs of the region.

Board of Trustees Support of Foundation's Role

The UWF Board of Trustees recognizes the critical role played by the Foundation in advancing the University of West Florida by encouraging, managing and administering charitable gifts from alumni, friends, corporations and foundations. The Trustees are committed to actively support, and to work in partnership with the Foundation Board to encourage giving and effective stewardship. The Board of Trustees will support the Foundation's efforts whenever possible through advocacy, participation in fundraising and/or donor recognition activities, and personal financial support. It is recognized that all who serve on any of the UWF boards have an important role in shaping the University's future.

The Foundation's Relationship to the University

The UWF Foundation is a not for profit corporation under the provisions of Chapter 617 of the Florida Statutes and qualifies under IRC §501(c)(3) for tax purposes. The UWF Foundation was created to raise, manage, distribute and steward private resources to support the various missions of the University of West Florida.

- The UWF Foundation Board of Directors is responsible for the control and investment of all assets of the Foundation, including the prudent management of all gifts consistent with donor intent.
- The UWF Foundation is responsible for the performance and oversight of all aspects

of its operations based on a comprehensive set of Bylaws that clearly address the Board's fiduciary responsibilities, including expectations of individual Board members based upon ethical guidelines and policies.

- The Executive Director of the Foundation is selected by the President of the University in accordance with Florida law and University policy. The Executive Director reports to the President or a designee reporting directly to the President of the University. The Executive Director shall advise, inform, and serve as a key liaison to the UWF Foundation Board of Directors, especially with respect to business and fiduciary matters. The Executive Director is responsible for implementing Foundation policies and actions taken by the Foundation Board of Directors.
- The UWF Foundation may earmark a portion of its unrestricted funds to a discretionary fund for the President of the University and will either transfer a percentage of those funds annually to the University in compliance with state law and University policies or reimburse appropriate Presidential expenditures. All such expenditures must comply with I.R.C. §501(c)(3) and be consistent with the Foundation's mission. Such funds will be audited as part of the Foundation's annual independent audit.

The University's Relationship to the Foundation

- The University President is responsible for communicating the University of West Florida's priorities and long-term plans, as approved by the Board, to the Foundation.
- The University of West Florida recognizes that the UWF Foundation is a private corporation with the authority to keep records and data confidential consistent with Florida law.
- The University of West Florida shall include the Foundation as an active and prominent participant in the strategic planning for the University.
- The President of the University or designee shall serve on the UWF Foundation Board of Directors in accordance with the UWF Foundation Bylaws.
- In consideration of UWF Foundation services, where permitted by law, the University of West Florida may provide the UWF Foundation with fair and reasonable compensation or payment for services. The amount of compensation may be negotiated on an annual basis by year-end of the preceding year, in accordance with University regulations and policies. In consideration of Foundation services, the University of West Florida may also provide in-kind support such as staff, office space, and technology.
- Similarly, in consideration of University of West Florida services, the UWF Foundation may provide the University with fair and reasonable compensation or payment for services. The amount of compensation may be negotiated on an

annual basis by year-end of the preceding year in accordance with University regulations and policies. In consideration of University of West Florida services, the UWF Foundation may also provide in-kind support.

- The University of West Florida shall establish and enforce policies that support the UWF Foundation's ability to respect the privacy and confidentiality of donor records in accordance with Florida law.

Foundation Responsibilities

Fund-Raising

- The UWF Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of the University of West Florida.
- The UWF Foundation, in consultation with the University President, is responsible for planning and executing comprehensive fund-raising and donor-acquisition programs in support of the institution's mission. These programs include annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate.
- The UWF Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the Foundation and the University and provide appropriate recognition and stewardship of such gifts.
- The University of West Florida recognizes that the Foundation bears major responsibility for fund-raising. University representatives will coordinate fund-raising initiatives including major gifts solicitations with the Foundation.
- The University President and Development staff will work in conjunction with the leadership of the Foundation Board and the Foundation Executive Director to identify, cultivate, and solicit prospects for private gifts.
- The UWF Foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the Foundation Board of Directors and the governmental agency.
- The UWF Foundation shall establish and enforce policies to protect donor confidentiality and rights in accordance with Florida law.

Asset Management

- The UWF Foundation will establish asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Management of Institutional Funds Act (UMIFA).
- The UWF 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.

Institutional Flexibility

- The UWF Foundation may explore current opportunities, including acquisition and management of real estate on behalf of the University of West Florida for future allocation, transfer, or use.
- Where permitted by law and University regulation and policy, the UWF Foundation may serve as an instrument for entrepreneurial activities for the University and engage in such activities as purchasing, developing, or managing real estate for University expansion, student housing, or retirement communities. It also may hold licensing agreements and other forms of donated intellectual property, borrow or guarantee debt, or engage in other activities to further the purposes of the University.
- When distributing gift funds to the University, the UWF Foundation shall monitor and disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. The University of West Florida shall abide by such restrictions to the extent permitted by law.

Transfer of Funds

- The UWF Foundation is the primary depository of private gifts and will make available funds to the designated entity within the institution in compliance with applicable laws, University policies, Foundation spending policies and gift agreements.
- The UWF Foundation's disbursements on behalf of the University must be reasonable and appropriate expenses that support the University, are consistent with donor intent, and do not conflict with Florida law.

Foundation Funding and Administration

- The UWF Foundation is responsible for establishing a financial plan to underwrite the cost of Foundation programs, operations, and services.
- The UWF Foundation has the right to fund its operations by reasonable means in accordance with UWF Foundation Board approved policies. Such methods may include the assessment of fees for services, imposing administrative fees, or utilizing a percentage of the earnings from the overall investment pool. These policies will be made available to the public and will be disclosed in accordance with applicable laws and regulations.
- The UWF Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.

- The UWF Foundation will provide access to data and records to the University in accordance with requests by the University with applicable law and Foundation policies and guidelines. The Foundation will provide copies of its annual report, and other information that may be publicly released in accordance with Florida law.

Communication Between the Board of Trustees and the Foundation Board

- The UWF Board of Trustees will communicate University priorities and goals via the President of the University. If the matter regards the President, such as his or her compensation, the communication will come from the UWF Board of Trustees as a collective body, unless the matter was specifically delegated to a Board of Trustees member, such as the chair. The authority of the Board of Trustees is a collective authority. Individual trustees have no individual authority.
- The University of West Florida Board of Trustees will receive a copy of the audit of the Foundation's financial and operational records and the annual audited financial statements, including management letter, and will certify the compliance of the Foundation with applicable statutes and rules with regard to direct support organizations of the University.
- The UWF Foundation will engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and will submit a copy of the annual audited financial statements, including management letter, to the University of West Florida Board of Trustees in accordance with Florida law.
- The Foundation Board of Directors will communicate with the Board of Trustees via the President of the University. If the matter regards the President, the communication will come from the Board as a collective body, unless the matter was specifically delegated to a Board member, such as the Foundation Board President. In accordance with the Foundation Bylaws, the authority of the Foundation Board is a collective authority. Individual directors have no individual authority.
- In accordance with the Florida Administrative Code, Section 6C6-5.016 governing UWF Direct Support Organizations, any amendments to the Articles of Incorporation or Bylaws of the Foundation shall be submitted by the UWF President to the UWF Board of Trustees for approval prior to becoming effective.
- The Chair of the UWF Board of Trustees shall appoint a representative to the Foundation Board and the executive committee of the Foundation. The President or designee shall also serve on the Foundation Board and executive committee of the Foundation in accordance with the UWF Foundation Bylaws, UWF Regulations and Florida law.

- To ensure effective achievement of the terms of this MOU, the University and Foundation officers and Board representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.
- Consistent with provisions appearing in the Foundation’s Bylaws and its articles of incorporation, should the Foundation cease to qualify as an I.R.C. §501(c)(3) organization, the Foundation will transfer its assets and property, to the University, to a reincorporated successor Foundation, or to the state or federal government for public purposes, in accordance with the law and donor intent.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the day and date first above written.

 Chair
 University of West Florida
 Board of Trustees

 President
 UWF Foundation, Inc. Board of Directors

Date: _____

Date: _____

 President
 University of West Florida

 Executive Director
 UWF Foundation, Inc.

Date: _____

Date: _____

Board of Trustees Approved: May 4, 2006
 Foundation Board Approved: June 9, 2006