

AFFILIATION AGREEMENT
BETWEEN
PRAIRIE VIEW A&M UNIVERSITY
AND
THE PRAIRIE VIEW A&M FOUNDATION

This Agreement is made and entered into this 16 day of April, 2009, by and between Prairie View A&M University, hereinafter referred to as the "University" and the Prairie View A&M Foundation, hereinafter referred to as the "Foundation."

RECITALS:

The University is an institution of higher education, a member of The Texas A&M University System, and an agency of the State of Texas.

The Foundation is a Texas non-profit corporation organized for the primary purpose of financially supporting the University in order to further the purposes, duties and missions of the University within the meaning of section 170(b)(1)(A)(iv) of the Internal Revenue Code.

The Foundation solicits, receives, invests, administers and recognizes gifts which support the educational, research and service missions of the University.

Tex. Govt. Code § 2255.001 requires a state agency for which a private organization exists that is designed to further the purposes and duties of the agency to adopt rules governing the relationship between the organization and the agency. The rules adopted shall govern all aspects of conduct of the agency and its employee in the relationship, including: (1) agency; (2) use of an employee or property of the agency by the organization; (3) service by an officer or employee of the agency as an officer or director of the organization; and (4) monetary enrichment of an officer or employee of the agency by the organization.

In accordance with Tex. Govt. Code § 2255.001, the Texas A&M University System implemented System Regulation 60.01.01 which addresses the requirements of the statute. Further, System Regulation 60.01.01 requires that an affiliation agreement be executed with each affiliated fundraising organization.

In consideration of the mutual covenants and conditions herein contained, the university and the Foundation agree as follows:

1. **FISCAL RESPONSIBILITY:**

- 1.1 The Foundation board has responsibility for the operation of the Foundation and the authorization of the expenditure of funds.

1.2 The administration and investment funds will be at the discretion of the Foundation board for the benefit of the University.

2. **UNIVERSITY EMPLOYEES:**

2.1 The Foundation may not use the services of University employees unless the terms and conditions of such use are set out fully in a separate agreement between the Foundation and University.

2.2 University employees may not serve on the board or other governing body of the Foundation.

2.3 University employees may not receive any type of monetary enrichment from the Foundation, such as salary or benefits, other than through the University.

2.4 Reimbursement by the Foundation to University employees for travel expenses must be made in accordance with the University's travel guidelines.

3. **USE OF UNIVERSITY PROPERTY:**

3.1 The terms and conditions of the use of University real property by the Foundation shall be set out fully in a separate written agreement between the University and the Foundation.

3.2 The Foundation may, in connection with its lawful business and activities, use the name of University as well as University's logo, and other symbols and marks of the University ("University Marks") consistent with the following restrictions:

The Foundation shall not authorize the use of University Marks to any person or entity without the written approval of the University Office of Public Relations or the President of the University.

The Foundation's use of University Marks shall be consistent with the mission of the University and the purposes of this Agreement. The Foundation shall not use the University's Marks and name in connection with advertising of non-University or non-Foundation products or services. The Foundation agrees to abide by the policies and guidelines of University in the use of the University Marks and name. Upon termination of this Agreement, as provided in section 8 below, the Foundation shall immediately cease and desist use of the University's Marks. The University may withdraw permission to use the University Marks (excepting the use of name in factual statements about the relationship of the Foundation and the University) if the University reasonably determines that the Foundation has violated the provisions of this subparagraph or that withdrawal of permission is necessary to protect the goodwill in University Marks.

The University will provide the Foundation with access to information and data files on new graduates, parents, students, employees, and retirees, including demographic information, scholarship recipient and disbursement information.

and degree information. The parties acknowledge that student information (other than directory information) is subject to federal privacy law of 20 U.S.C. §1232g et. seq. (commonly referred to as FERPA). The Foundation agrees to execute a FERPA Agreement to perform its contractual obligations under this Agreement. Employee and retiree information will be handled in accordance with generally recognized standards for personnel records, and private information therein shall not be re-disseminated except as authorized by University or as required by law.

4. **AUDIT AND REPORTS:**

- 4.1 The Foundation is responsible for any audits required by state and federal law or governmental regulation. A copy of any such audit shall be provided to the University within 30 days following completion of the audit.
- 4.2 The Foundation will provide the University with a copy the Foundation's annual financial statements, audited by an independent certified public accountant, within 30 days following completion of the audit.
- 4.3 The Foundation shall be responsible for its own fiscal reports, accounting, local, state or federal reports, etc.
- 4.4 The Foundation must provide to the University all necessary information to satisfy audits by The Texas A&M University System.
- 4.5 Any direct funding provided to the Foundation by the University is subject to audit by The Texas A&M University System.

5. **DISBURSEMENT OF FUNDS:**

- 5.1 Disbursements shall be made in support of the University as authorized by the Foundation board.
- 5.2 All disbursements are subject to the restrictions of the donor.

6. **REPRESENTATION ON FOUNDATION BOARD:**

- 6.1 The President of the University or his designee shall serve as an ex-officio non-voting member of the board of the Foundation.
- 6.2 Such service shall be without any remuneration or personal gain, but the President shall be entitled to reimbursement for travel expenses in accordance with the University's travel guidelines.
- 6.3 Such participation shall be for the purpose of providing advice and coordination for the mutual interest of the University and the Foundation, including but not limited to presenting annual development goals, priorities and needs of the University.

7. **GOVERNANCE OF AGREEMENT:**

- 7.1 No provision of this Affiliation Agreement may conflict with or supersede a requirement of any law of the State of Texas. If any provision is found to be in conflict, it shall be void.
- 7.2 No provision of this Affiliation Agreement may conflict with or supersede a requirement of the Policies and Regulations of The Texas A&M University System and/or Rules of the University. If any provision is found to be in conflict, it shall be void. The Prairie View A&M Foundation shall be advised of any subsequently adopted or modified Policies and Regulations of The Texas A&M University System and Rules of Prairie View A&M University which conflict with this Affiliation Agreement.
- 7.3 This Agreement shall be governed by the laws of the State of Texas.

8. **DURATION OF AGREEMENT:**

- 8.1 This Agreement shall be effective on the date set out above, and shall continue in force for a term of five (5) years.
- 8.2 This Agreement may be terminated by either party upon one hundred eighty (180) days written notice to the other party.
- 8.3 Modifications to this Agreement may be made from time to time by mutual written agreement of the parties. Those modifications shall become a part of this Agreement as of the effective date of the modification.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

Prairie View A&M University

Prairie View A&M Foundation

George C. Wright
President

Roy G. Perry - President PVAMF
President

Date: 4-16-09

Date: 4-15-09

Maryne Hodge
Recommended Approval
Vice President for Business Affairs

ROY G. PERRY - PRESIDENT PVAMF

[Signature]
Approval for Legal Sufficiency
Office of General Counsel