

Daisy Gonzalez-Diego, Chief Communications Officer
Office of Communications

**SUBJECT: REQUEST FOR APPROVAL OF CONTRACT BETWEEN THE
SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA,
THROUGH WLRN AND FRIENDS OF WLRN, INC.**

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

**LINK TO STRATEGIC
BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

The contract between the School Board of Miami-Dade County, Florida ("School Board") and Friends of WLRN, Inc. ("Friends") seeks to formalize the long-standing relationship, as well as provide financial safeguards that comply with the Corporation for Public Broadcasting ("CPB")'s regulations. CPB provides an annual grant to WLRN for both the Television and Radio broadcasts.

Following two CPB Office of Inspector General comprehensive audits of the station, CPB has required that WLRN execute a financial services agreement with Friends, the fundraising entity for WLRN. The attached limited agreement meets the requirements set forth by the CPB.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, accept the contract between The School Board through WLRN and Friends of WLRN, Inc.

E-111

CONTRACT

This Contract (the "Contract") dated as of the 14th day of June, 2018 is between The School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida (the "School Board"), and Friends of WLRN, Inc. ("Friends"), a Florida not-for-profit corporation. The School Board and Friends are jointly referred to as the "Parties." This Contract shall commence on the date of execution of this Contract and shall expire on January 31, 2019.

RECITALS

WHEREAS: Friends is a Florida Not-For-Profit corporation, organized to provide support for the broadcast and non-broadcast activities of WLRN-FM and WLRN-TV;

WHEREAS: The School Board is the Federal Communications Commission ("FCC") licensee of WLRN-FM and WLRN-TV (the "Stations") and is responsible for their operation; and

WHEREAS: The School Board and Friends desire to execute a limited contract to assist the School Board with respect to its compliance with Federal, State and Corporation for Public Broadcasting ("CPB") requirements.

NOW, THEREFORE, in reliance upon the true and correct recitals stated above, and in consideration of mutual covenants, conditions, and agreements contained herein, each party hereto agrees as follows:

I.

FINANCIAL MANAGEMENT/BUDGET

1.1. Friends shall have its financial statements audited and certified by an external Independent Certified Public Accountant licensed by the State of Florida ("Friends IA"). Friends' certified and audited financial statements shall be comparative financial statements as required by CPB guidelines. Friends' audited and certified financial statements shall be submitted to the M-DCPS Chief Financial Officer ("CFO") no later than September 30th of each year unless (i) an extension is reasonably required; and (ii) the audited and certified financial statements are submitted to the CFO no later than October 15th. Any additional extensions must be consented to by the CFO, whose consent shall not be unreasonably withheld.

1.2. Friends shall maintain financial records under a system of accounts and financial controls that is consistent with Generally Accepted Accounting Principles ("GAAP").

1.3. Friends' audited financial statements shall include the combined statements of revenues and expenses relating to the Stations, with supporting schedules segregated by line of business and/or back-up materials, including a detailed trial balance that agrees

with the audited financial statements. Friends' IA and Friends' staff shall be available to answer questions by the CFO and School Board staff in order to submit an accurate and timely Annual Financial Report ("AFR") to CPB. Friends' Federal Tax Return (IRS Form 990, including all required corresponding schedules), must be submitted to the CFO no later than the filing deadline with the Federal government. If the deadline is to be extended, it shall be with notice to the School Board. Friends shall make available to the CFO and/or designee any financial records or information needed for a timely and accurate filing of the AFR with the CPB within ten (10) business days from the date of the request. The supporting materials needed for an accurate AFR filing with the CPB shall be retained by Friends for five (5) years.

1.4 The School Board shall secure the services of its own external independent auditor ("School Board IA") to audit the Stations' financial statements in accordance with GAAP and CPB Financial Reporting Guidelines. The School Board IA shall examine the AFR prepared by the School Board's Financial Services staff and issue an attestation about the reliability of the amounts reported in the AFR as non-federal financial support ("NFFS"). The NFFS examination shall include testing of support and revenue for qualification of NFFS under the source, form, purpose and recipient criteria delineated in GAAP and CPB Financial Reporting Guidelines. CPB also requires that the School Board IA examine the AFR in accordance with attestation standards adopted by the American Institute of Certified Public Accountants (AICPA).

II.

FUNDRAISING AND SUPPORT/DONOR LISTS

2.1. Friends' sole purpose is to provide assistance to the Stations as described in its Articles of Incorporation and Bylaws. As such, all Support funds raised or secured by Friends shall, after payment of Friends' operating expenses, be solely for the benefit of the Stations.

2.2. In an annual joint planning session, Friends, the General Manager of the Stations who is appointed and employed by the School Board (the "General Manager"), and the CFO shall coordinate Support activities, including financial contributions from individuals, corporations and foundations. Sources of financial contributions include, but are not limited to, membership solicitation, underwriting, grants, major gifts, and special events.

2.3. Membership, donor lists and all associated information (the "Donor List"), while created and managed by Friends, is the property of the School Board and shall be made available upon request to the School Board or General Manager in any form maintained by Friends. Friends shall maintain active control of the Donor Lists and shall take all appropriate measures to ensure against unauthorized use of the Donor List, including measures required by federal law and by CPB. Friends recognizes that the School Board, as CPB's grantee, is required to abide by CPB's regulations with regard to Donor Lists. Neither Party shall disclose donor names or other personally identifiable information regarding donors to any non-affiliated third party unless such disclosure is

permitted or required in accordance with law or judicial process. Donor Lists are exempt from disclosure under Section 119.07(1) of the Florida Public Records disclosure law pursuant to Sections 1001.24(4), and 1001.453(4) of Florida Statutes. Neither Party shall rent, sell or license contributor or donor names or other personally identifiable information to, or exchange such information with, any candidate, political party, or political committee. Contributor and donor names, and other personally identifiable information, shall be freely shared between the School Board and Friends for the exclusive purpose of fundraising on behalf of the Stations.

2.4. The School Board shall have a right to review contributions of all donors to ensure that proposed donations do not give rise to an appearance of loss of integrity or impartiality, or otherwise reduce public confidence in Friends or the Stations. Friends agrees to maintain the Donor List on generally accepted and used support software. Should Friends change the Donor List software, Friends shall notify the CFO prior to purchase of new software or the transfer of any donor information to the new software. Friends further agrees the Donor List is held in trust for the School Board. Failure to maintain the Donor List in accordance with the terms of this Contract shall be a material breach. The Donor List shall be returned to the School Board should this Contract be terminated pursuant to Section 7 below.

2.5. Friends and the School Board shall use all donations for the specific intent with which they were raised, namely to support the continued operation and further the activities of the Stations, in accordance with the terms of this Contract, the by-laws of Friends, and The Florida Uniform Prudent Management of Institutional Funds Act codified in Florida Statute §617.2104, and 26 U.S.C. §501(c)(3). All funds shall be used for purposes related primarily to the production or acquisition of programming by the Stations or to improve the quality and scope of services the Stations provide to the community through educational materials, programming and production, broadcast and non-broadcast transmissions, distribution and promotion of programs, and management of day-to-day operations pursuant to the Communications Act and CPB Grant requirements codified in 47 U.S.C. §396(k)(7).

III. OTHER TERMS

3.1. This Contract and performance hereunder is subject to all applicable laws, regulations and government policies (including Chapter 119, Florida's Public Record Act but solely to the extent applicable and after consideration of all applicable exemptions and exclusions), whether now in force or hereafter enacted or promulgated, and shall be governed by, and construed in accordance with, the laws of the State of Florida.

3.2. In the event that Friends fails to fulfill or comply, in all material respects, with this contract, the School Board shall provide Friends with written notice of such nonfulfillment or noncompliance (the "Default Notice"), which Default Notice shall specify the operative provision(s) at issue and shall specify in detail in what ways Friends has failed to fulfill its obligations under, or is in noncompliance with, such operative provision.

If Friends fails to cure any such nonfulfillment or noncompliance (i) with respect to Article I within thirty (30) days after receipt by Friends of the Default Notice or (ii) with respect to all other obligations hereunder, within sixty (60) days after receipt by Friends of the Default Notice, the School Board may, with twenty (20) days' written notice to Friends: a) require Friends to suspend activities until the default has been cured under the Contract other than those activities which Friends cannot reasonably avoid, or which would be financially detrimental to the Stations for Friends to suspend; b) terminate the Contract for cause, immediately effective upon notice, when the School Board reasonably determines that Friends has jeopardized the integrity, safety or welfare of the Stations or when the fiscal integrity of the Contract has been compromised; or c) invoke any other remedy or remedies that may be legally available to the School Board.

3.3. To the fullest extent permitted by law, the Parties shall indemnify and hold each other, and their respective Board members, agents and employees harmless from and against all claims, liabilities, damages, losses, and costs, including but not limited to, repayments, penalties of forfeitures levied by the CPB, reasonable costs and attorneys' fees incurred at the pre-trial, trial and appellate levels, arising out of, resulting from, or incidental to the performance of their respective obligations under this Contract, and to the extent caused by negligence, recklessness, or intentional wrongful conduct of either Party, its Board, or other persons employed or utilized by the Party in performing to its duties and obligations under this Contract.

3.4. This Contract contains the entire agreement of the Parties with respect to the limited matters covered herein. All provisions of this Contract regarding Friends shall include and be binding upon its subsidiaries and affiliates.

3.5. The Parties agree that the venue to commence litigation of any disputes stemming from this Contract shall be a Federal court with appropriate jurisdiction. Each Party shall be responsible for its own attorneys' fees.

IV. NOTICES

4.1. All notices hereunder shall be mailed via certified mail, return receipt requested to the parties as follows:

If to WLRN:

General Manager, WLRN
WLRN

With a copy to:
Chief Communications Officer

172 NE 15th Street
Miami, FL 33132

Miami-Dade School Board
1450 NE 2nd Avenue
Miami, FL 33132

Superintendent of Schools
Miami-Dade School Board
1450 NE 2nd Avenue
Miami, FL 33132

and

School Board Attorney
Miami-Dade School Board
1450 NE 2nd Avenue
Miami, FL 33 132

If to Friends:

Executive Director
Friends of WLRN, Inc.
172 NE 15th Street
Miami, FL 33132

With a copy to:
Chair of Friends of WLRN, Inc.
C/O Friends of WLRN, Inc.
172 NE 15th Street
Miami, FL 33132

or at such other addresses as either party may designate by Notice to the other.

Signed, Sealed and Delivered as of the date first above written.

**THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA**

By: _____

Print Name: _____

Title: _____

FRIENDS OF WLRN, INC.

By:  _____

Print Name: MICHAEL JALALI

Title: EXECUTIVE DIRECTOR

Approved as to Form and Legal
Sufficiency

By: _____

Print Name: _____

Title: School Board Attorney

