



**District Board of Trustees
Governance & Legislative Affairs Committee Meeting
Indian River State College – Dixon Hendry Campus
Williamson Conference Center Auditorium, C112
2229 NW 9th Avenue, Okeechobee, FL 34972**

October 28, 2025

AGENDA

1. Call to Order – *Trustee Kindell, Chair*
2. Request approval of the Amended and Restated Operating Agreement between the District Board of Trustees of Indian River State College and Indian River State College Real Estate, Inc. – *Caroline Valentin*
3. Adjourn

DISTRICT BOARD OF TRUSTEES



SUMMARY OF ITEM FOR
ACTION

TOPIC: Amended and Restated Direct Support Operating Agreement between The District Board of Trustees of Indian River State College and Indian River State College Real Estate, Inc.

REGULAR AGENDA OR COMMITTEE: Governance & Legislative Affairs Committee

SUBMITTED FOR: X **ACTION/VOTE**
 INFORMATION
 DISCUSSION

SUMMARY: The DBOT and the Indian River College Real Estate, Inc. (“DSO”) entered into an operating agreement on September 19, 2025 (“Operating Agreement”). The proposed Amended and Restated Operating Agreement amends section III(E) to remove the Executive Director as an *ex officio* (non-voting) member of the DSO Board of Directors.

ALTERNATIVE(S): Do not approve the amended and restated agreement which will result in the Executive Director remaining an *ex officio* member of the DSO Board of Directors.

FOR CONTRACTS:

1. **TERM:** Through June 30, 2125
2. **FISCAL IMPACT:** None
3. **TERMINATION TERMS:** The Operating Agreement may be terminated by agreement of the DBOT and DSO or unilaterally by the DBOT.

PRESIDENT’S RECOMMENDATION: Recommend approval.

SUBMITTED BY: Caroline A. Valentin

DATE: 10/8/25

BOARD ACTION:

DATE: 10/28/25

**AMENDED AND RESTATED
DIRECT SUPPORT ORGANIZATION OPERATING AGREEMENT BETWEEN THE
DISTRICT BOARD OF TRUSTEES OF INDIAN RIVER
STATE COLLEGE AND INDIAN RIVER STATE COLLEGE REAL ESTATE, INC.**

THIS AMENDED AND RESTATED DIRECT SUPPORT ORGANIZATION OPERATING AGREEMENT ("Agreement") is entered into and made effective on this 28th day of October 2025, by and between **THE DISTRICT BOARD OF TRUSTEES OF INDIAN RIVER STATE COLLEGE, FLORIDA** ("DBOT") a political subdivision of the State of Florida with its mailing address at 3209 Virginia Avenue, Fort Pierce, Florida 34981 and **INDIAN RIVER STATE COLLEGE REAL ESTATE, INC.** ("Real Estate DSO"), a Florida corporation not-for-profit with its mailing address at 3209 Virginia Avenue, Administration Building, Fort Pierce, Florida 34981.

I. Preliminary Statement

Section 1004.70 of the Florida Statutes provides for the creation of a direct support organization 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 Direct Support Organization in its mission of supporting the college. In order to establish the working relationship between the DBOT and the Real Estate DSO, and to delineate the functions of each, the parties have entered into this Agreement.

II. Organization of the Real Estate Direct Support Organization

The DBOT has oversight responsibility for the Real Estate DSO because it is a direct support organization of Indian River State College ("College") and was created to operate in a manner consistent with the purposes, goals, and objectives of the DBOT and College, at all times. In order to fulfill this responsibility, the DBOT requires the Real Estate DSO to be properly organized and to meet the minimum standards and requirements set forth in the applicable Florida Statutes, College policies and procedures, and this Agreement.

- A. Purpose.** The Real Estate DSO is hereby recognized and certified by the DBOT as an Indian River State College DSO because it uses 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. The Real Estate DSO was created and is operated pursuant to Section 1004.70, Florida Statutes.
- B. Incorporation.** The Real Estate DSO is, 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 Real Estate DSO is, and at all times shall remain, exempt from federal and state taxes. Exemption from federal taxation is not automatic, as such, the Real Estate DSO has been qualified as a tax-exempt. organization (typically referred to as a "501(c)(3) organization") by the Internal Revenue Service and will maintain such tax-exempt status at all times. The Real Estate DSO has submitted its federal Internal Revenue Service Application for Recognition of Exemption form and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form to the DBOT.
- D. **Articles of Incorporation.** The Real Estate DSO 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 Real Estate DSO's stated mission and purpose for which it is organized shall be to support and benefit the College.
- E. **Bylaws.** The day-to-day governance of the Real Estate DSO's corporate affairs shall be provided in its bylaws. The bylaws must contain provisions dealing with the membership of its governing board, meeting requirements, including any applicable open meeting requirements, amendments to its governing documents, and duties of its board members.

III. **Management of the Real Estate DSO**

- A. The DBOT shall maintain oversight and approval authority over the Real Estate DSO in order to ensure that the Real Estate DSO is operating in a manner consistent with the goals, missions, and priorities of the DBOT and College and in the best interest of the same. The DBOT shall oversee the Real Estate DSO to ensure that it is at all times operating and functioning consistently with applicable Florida laws and policies and procedures of the College, including but not limited to Section 1004.70, Florida Statutes and Indian River State College District Board of Trustees Policies.
- B. The College will provide the Real Estate DSO such staff as the DBOT deems appropriate for the Real Estate DSO 's operations, suitable offices, facilities for staff and activities, such equipment, materials, and supplies as reasonably required for the operation of the Real Estate DSO.
- C. The Real Estate DSO's Board of Directors ("Real Estate DSO Board") shall be responsible for the management of the Real Estate DSO's assets, consistent with this Agreement, Florida law, its Articles of Incorporation, and its Bylaws, and subject to the DBOT's oversight authority. The Real Estate DSO 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 DBOT and College and in the best interest of the State.

- D.** The Real Estate DSO Board shall be responsible for the performance and oversight of its operations, based on its Bylaws that clearly address the Real Estate DSO Board's responsibilities and expectations, subject to the DBOT's oversight authority.
- E.** The Real Estate DSO shall employ an Executive Director. The Executive Director shall be a College employee, reporting to the President, is responsible for all activities related to soliciting private support, establishing productive relationships with external groups, reporting of gifts and Real Estate DSO developments, and serve as a liaison to the Real Estate DSO Board.
- F.** The Chair of the DBOT is entitled to appoint a representative to serve as a member of the Real Estate DSO's Board and Real Estate DSO's Executive Committee. Furthermore, the President of the College or his designee also serves as a member of the Real Estate DSO Board and Real Estate DSO's Executive Committee.
- G.** The DBOT recognizes that the Real Estate DSO plays a large role in assisting with and coordinating the management and oversight of real estate assets and tangible personal property.
- H.** Any transaction or agreement between the Real Estate DSO and any other DSO or entity must be approved by the DBOT, except as provided for in this Agreement. The DBOT delegates to the Real Estate DSO Board authorization for approval of short-term loans and lease-purchase agreements for a term of not more than 5 years, including renewals, extensions, and refunding, for goods, materials, equipment, and services, on the condition that the President, in his or her judgment, determines that the activities fall within the mission of the College and believes such usage to be for the good of the College, its students and its faculty.

IV. Employees of Real Estate DSO

All full-time employees of the Real Estate DSO may be regular employees of the College and entitled to participate in all benefits available to College employees allowed by law and approved by the DBOT. As College employees, Real Estate DSO employees will be subject to the same evaluation and compensation structure as College employees and subject to all of the College's policies and procedures and requirements of Florida law for public employees.

V. Liability

The DBOT and the Real Estate DSO are separate and distinct legal entities, and nothing in this Agreement is intended to create or constitute a joint venture, partnership, agency, or irrevocable or revocable trust 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 Chair of the Real Estate DSO or other designees may bind the Real Estate DSO when acting within the scope of his or her authority as delegated by the Real Estate DSO's Board of Directors or the Real Estate DSO Chair. In all

matters relating to this Agreement, each party hereto shall have sole liability for its own acts. The Real Estate DSO shall be responsible for the acts of its Board of Directors, and the DBOT shall be responsible for the tortious acts of the College's employees assigned to work for the Real Estate DSO when acting within the scope of their duties as an employee. The maximum limit of the DBOT's and Real Estate DSO'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. Indemnification

Subject to the limitations set in Section 768.28, Florida Statutes, the DBOT and Real Estate DSO agree to indemnify, defend, save and hold harmless the other party from and against any claim, liability, debt, judgment, expense or other costs related to or arising out of the indemnifying party's acts, omissions, or negligence. Nothing contained herein shall be deemed a waiver of any applicable sovereign immunity pursuant to Florida Statute 768.28

VII. Real Estate DSO Responsibilities

- A. Property Asset Management.** The Real Estate DSO is authorized to oversee, manage, operate, and undertake related funds thereto, for real property or tangible personal property, consistent with applicable laws and College's policies.
- B. Audits.** The Real Estate DSO will engage an independent accounting firm annually to conduct an audit of its financial and operational records, in accordance with rules adopted by Florida's Auditor General. The Real Estate DSO will submit the annual audit report within six months of the end of the fiscal year which it covers to the College for review and approval by the DBOT. The DBOT will submit the annual audit report to the State Board of Education and the Auditor General within nine months after the end of the fiscal year which it covers in accordance with Section 1004.70, Florida Statutes.
- C. Transfer of Funds.** The Real Estate DSO is authorized to transfer funds to the College in compliance with applicable laws and College policies.

The Real Estate DSO's disbursements to and or on behalf of the College must be for the benefit of the College, and consistent with applicable law and College policies established by the DBOT.

- D. Access to and Sharing of Data and Information.** The Real Estate DSO will provide access to information, data and records to the DBOT, as required by law. The Real Estate DSO 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. The Executive Director of the Real Estate DSO shall report to the President, or designee, and shall provide full, complete and timely information regarding the operation of the Real Estate DSO

upon request by the President or DBOT. The Real Estate DSO shall be provided reports of activity regarding authorized disbursements.

VIII. Decertification

Pursuant to Florida law, if, at the President's request or at its own initiative, the DBOT determines that the Real Estate DSO is no longer operating for the benefit of the College, the tax- exempt status of the Real Estate DSO has been revoked by the Internal Revenue Service, or the Real Estate DSO has persistently failed to materially comply with applicable laws or this Agreement, the DBOT may decertify the Real Estate DSO as its DSO.

In the event the Real Estate DSO is decertified by the DBOT, ceases to do business, or repeatedly and materially fails to comply with this Agreement, applicable Florida laws or applicable IRSC policies, and said failure is not corrected within thirty (30) days of written notice, the Real Estate DSO agrees that any and all assets held by the Real Estate DSO at such time shall be transferred to the College or as the DBOT may direct, to any other IRS Section 501(c)(3) organization operating for the benefit of the College and, to the extent possible, operating in a manner consistent with the initial goals and objectives of the Real Estate DSO.

IX. Intellectual Property Rights

Consistent with its mission to operate for the benefit of the College, the Real Estate DSO is granted permission to incorporate the name Indian River State College into its name. The Real Estate DSO has the authority to use the College's name, 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, purpose, and mission of the College, and in the best interest of the State of Florida.

X. Review of Agreement

This Agreement will be reviewed on a biannual basis, at a minimum, or more frequently, if necessary. Any amendments or modifications must comply with Paragraph XI of this Agreement.

XI. Amendments

This Agreement may be amended or modified by a writing signed by authorized officers from both parties, which recites that it is an amendment to this Agreement.

XII. Term

This Agreement shall become effective upon signature by the authorized officers from parties and will remain in effect until June 30, 2125, unless terminated by agreement or by the DBOT.

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

**THE DISTRICT BOARD OF TRUSTEES
OF INDIAN RIVER STATE COLLEGE,
FLORIDA**

Attest: _____
IRSC President

By: _____
Chair, IRSC District Board of Trustees

Date: October 28, 2025

**INDIAN RIVER STATE COLLEGE
REAL ESTATE, INC.**

Attest: _____
Executive Director
Indian River State College Real
Estate, Inc.

By: _____
Chair, Indian River State College Real
Estate, Inc. Board of Directors

Date: October 28, 2025