

**COOPERATIVE AGREEMENT BETWEEN
 FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES
 THE FLORIDA ATLANTIC UNIVERSITY FOUNDATION, INC.
 AND
 THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA
 FOR THE MUTUAL USE OF FACILITIES IN CONNECTION WITH
 ELEMENTARY SCHOOL 03-Y**

This Cooperative Agreement is made this _____ day of _____, 20____, between the Florida Atlantic University Board of Trustees ("FAU"), the Florida Atlantic University Foundation, Inc., a Florida not for profit corporation ("FAU Foundation"), and the School Board of Palm Beach County, Florida, a corporate body politic pursuant to the Constitution of the State of Florida ("School Board").

WITNESSETH

WHEREAS, FAU and the School Board have entered into a Ground Lease of even date herewith wherein FAU leased to the School Board certain real property owned by FAU commonly known as the "Pine Jog Property"; and

WHEREAS, FAU and the School Board desire to enter into a cooperative agreement regarding the construction, use and maintenance of certain facilities to be constructed on the Pine Jog Property ; and

WHEREAS, the School Board plans to construct an approximate 960-student capacity elementary school in the vicinity of Jog Road and Summit Boulevard with a projected opening date of August 2008 ("03-Y Elementary");

WHEREAS, FAU desires to construct up to a 15,000 square foot environmental education complex on the Pine Jog Property ("Environmental Education Complex");

WHEREAS, the parties have similar missions and recognize opportunities for shared use of the 03-Y Elementary and the Environmental Education Complex facilities and educational synergy, thereby minimizing the duplication of facilities;

NOW THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the parties hereby agree as follows:

1. Recitals.

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

2. Purpose.

The purpose of this Agreement is to enable School Board, at its expense, to construct the 03-Y Elementary and Environmental Education Complex and for the parties to operate, maintain and utilize each other's facilities to be constructed on the Pine Jog Property and to provide a procedure for authorizing the use of the facilities.

3. Definitions.

A. "School Board Facilities" and "School Board Facility" mean the 03-Y Elementary School improvements.

B. "Joint Use Facilities" means those portions of the 03-Y Elementary and Environmental Education Complex that are shared by the parties as mutually agreed upon.

C. "FAU Representative" means the Dean of the FAU College of Education, or his/her designee.

D. "Environmental Education Complex" means the facilities including offices, classrooms, meeting rooms and parking lot owned and operated by FAU.

E. "FAU Foundation Representative" means the Executive Director of the FAU Foundation, or his/her designee.

F. "Facilities" means the School Board Facilities and Environmental Education Complex.

G. "03-Y Site" means the mutually agreeable, approximately 15 acre site within the Pine Jog Property on which the School Board will construct 03-Y Elementary.

4. Obligations of FAU and FAU

A. FAU will provide the School Board with a 75-year ground lease ("Ground Lease") on a mutually agreeable site, generally depicted on Exhibit "A" attached hereto, for \$1 a year. The parties acknowledge that the legal description to the 03-Y Site is approximate and that it will be further refined based on an actual survey to be performed by the School Board. Upon the completion of the School Board's survey, a copy shall be provided to FAU and an amendment to the Ground Lease shall be executed by the parties reflecting the surveyed legal description. For purposes of this paragraph, the School Board's Chairman

and Superintendent shall be authorized to approve the surveyed legal description for the Ground Lease and execute the amendment to the Ground Lease on behalf of the School Board without the need for any action or approval of the School Board. For purposes of this paragraph, the FAU Representative shall be authorized to approve the surveyed legal description for the Ground Lease and execute the amendment to the Ground Lease on behalf of FAU without the need for any action or approval of the FAU Board of Trustees. Provided School Board is not in default under the Ground Lease, and provided School Board gives written notice to FAU of School Board's election to renew this Lease not later than one year prior to its scheduled expiration, the School Board may elect to renew the Ground Lease for an additional 25 years. The Ground Lease shall be in form and substance that will permit the School Board to use Certificates of Participation (COPS) for funding of the project. In conjunction with the Ground Lease, FAU agrees to enter into "Subordination and Standstill" provisions relative to the issuance of Certificates of Participation for the 03-Y Site and to cause to be delivered a Subordination and Standstill Agreement with respect to all reverter rights to which the 03-Y Site is subject.

B. FAU's contribution shall be in the form of land value, hereinafter referred to as the "Land Value", which for purposes of this Agreement shall be deemed to be equal to \$2,765,000. In the event that the cost to construct the Environmental Education Complex exceeds the Land Value, both parties will work together to reduce costs, to the extent possible, including but not limited to through prudent value-engineering. Neither FAU nor FAU Foundation will be responsible for contributing any additional funds to the construction costs associated with the Environmental Education Complex.

C. FAU will also be responsible for the on-going maintenance and monitoring of all preserve areas within the 03-Y Site to the equivalent level that FAU currently monitors and maintains the similarly preserved areas within the Pine Jog Property.

D. FAU shall, subject to its counsel's approval, execute or cause to be executed any documents required by the South Florida Water Management District or other regulatory agency to evidence the right to outflow surface water from the 03-Y Site and Environmental Education Complex to the existing pond on the Pine Jog Property.

5. Obligations of School Board

A. The School Board will construct, at its sole expense, an approximate 960-student capacity elementary school to open no later than August 2008 in accordance with State Requirements for Educational Facilities (SREF) and the Environmental Education Complex adjacent to the 03-Y Site. The School Board Facilities will build all School Board Facilities consistent with the School Board's standard Educational Specifications, as modified to the extent practicable to meet Leadership in Environmental and Energy Design, Version 2.1, (LEED) Certification goals and joint program needs. The Environmental Education Complex will also be designed to meet LEED Certification goals.

B. The 03-Y Elementary and Environmental Education Complex will be designed by an Architect with LEED certification, in coordination with School Board and FAU staff. They will be constructed with "green" construction techniques as mutually agreed to by both parties, to the extent practical. It is agreed that the School Board will include in its request for proposal and contract documents requirements that the design and construction will, at a minimum, comply with the "LEED Certified" level of certification. The School Board will incorporate the "green" requirements early in the project development process in order to minimize any additional cost impacts. The School Board's financial contribution to the construction of the Environmental Education Complex shall be limited to the Land Value.

C. Consistent with the LEED guidelines, the School Board will endeavor to minimize impacts on the 03-Y Site area not necessitated for construction. The School Board will designate an area, within the fifteen acres of the 03-Y Site, for future improvements. Development of the future expansion area will be included in the site plan and environmental permit applications for 03-Y Elementary however, unless mutually agreed otherwise, this area will not be cleared of native vegetation until such time as improvements are required by overcrowding or special program needs at 03-Y Elementary. Any additional exterior improvements outside the designated current and future building envelope or a change in the nature of the use of the 03-Y Facilities from its use as an educational facility will first require the written approval of FAU, which shall not be unreasonably withheld. For example, the addition of modular classrooms or a classroom building addition located within the area designated for expansion on the 03-Y Site would not require approval of FAU but the proposed construction of a new building within the 03-Y

Site but outside of the area designated for expansion would require approval of FAU. Similarly, a proposed change in the use of the 03-Y Facilities from an elementary school to a middle school would not require approval of FAU but proposed change in use to an ancillary facility, including but not limited to an administrative center or bus/maintenance compound, would require approval of FAU.

D. The School Board will be responsible for obtaining permits, and paying the costs of related fees, from the South Florida Water Management District (SFWMD) and/or Lake Worth Drainage District (LWDD) as is normally required for new school construction projects.

F. With respect to the after-care programs to be operated at 03-Y Elementary, the School Board shall provide FAU with first opportunity to provide these services on terms and conditions that are mutually agreeable to the School Board and FAU. In the event that FAU opts not to provide these services or the School Board and FAU are unable to reach an agreement on the terms and conditions of providing these services by December 15, 2007, the School Board shall be free to provide these services using District employees or enter into negotiations with other entities to provide these services, all in accordance with the District's School Age Child Care guidelines.

6. Mutual Obligations of the Parties

A. Curriculum. The mission of the project will include environmental, sustainability and stewardship education. These elements of the project's mission will be reflected in the 03-Y Elementary's School Improvement Plan or equivalent documents governing the school curriculum, professional development for teachers and student achievement. The School Board and FAU will work together to accomplish a curriculum at 03-Y Elementary that incorporates the Florida Department of Education K-5 SSS and the Palm Beach County School District Goals and Key Results through environmental themes that focus on content and related technology, materials and/or equipment for the achievement of all students. In order to foster cooperative ventures both in terms of curriculum and operation of 03-Y Elementary, the following procedures will be put into place prior to the opening of the school:

- a. A member of the Pine Jog Board of Directors and a Pine Jog staff

- member will be invited to serve on the School Advisory Committee.
- b. One individual from the environmental community will be invited to serve on the School Advisory Committee.
 - c. FAU will work with the School Board to create opportunities for graduate student teaching internships at 03-Y Elementary, as well as professional development opportunities for School Board educators.
 - d. A standing committee will be established to provide input regarding science programs and activities at the school. The membership of the committee may include, but is not limited to, the following individuals or designees: District Director of Elementary Education, District K-5 and 6-12 Science Program Planners, 03-Y Elementary principal, one or more teachers at 03-Y Elementary, Pine Jog Executive Director, and Dean of the FAU College of Education or his/her designee.

B. Attendance Boundaries. As 03-Y Elementary is needed to relieve overcrowding in area schools, the School Board will not be restricted from establishing attendance boundaries for 03-Y Elementary. If any additional seats remain after meeting the School Board's Concurrency obligations, seats may be available for "Choice" selection by students outside the attendance boundaries.

C. Joint Use of Parking Lots. FAU hereby grants unto School Board a non-exclusive license over, upon and across the parking areas within the Environmental Education Complex. School Board hereby grants unto FAU a non-exclusive license over, upon and across the parking areas within the 03-Y Site. The parking areas within the Environmental Education Complex and the 03-Y Site shall be hereinafter referred to as the "Shared Parking Area". The parties shall have the reasonable use of the other's Shared Parking Area for parking and for ingress and egress by vehicular and pedestrian traffic. FAU and School Board, and their employees, agents and invitees, shall each have the non-exclusive right, in common with the other, to the reasonable use of the other's parking facilities within the Shared Parking Area. School Board intends to construct and operate an elementary school upon the 03-Y Site, and construct the Environmental Education Complex and FAU intends to operate the Environmental Education Complex upon the Pine Jog

1/25/06

EXHIBIT "B"

Property immediately adjacent to the 03-Y Site. The parties agree to cooperate in scheduling activities on their respective sites to avoid conflicting needs for the Facilities. Notwithstanding the foregoing, the parties agree that FAU may utilize the Shared Parking Area, located within the 03-Y Site, together and in conjunction with the School Board, from the end of the regular school day until 11PM on weekdays when school is in session, and from 7AM until 11PM on weekends and other days when school is not in session, on a first come, first served basis. FAU acknowledges that School Board will maintain exclusive use of the Shared Parking Area located within the 03-Y Site for school activities during the school day as set forth above. FAU acknowledges that School Board reserves the right to exclude FAU's use of the Shared Parking Area located within the 03-Y Site for special events sponsored at, or by, the School Board, including but not limited to open house(s), performances, fairs, etc. School Board shall provide FAU with a minimum of fourteen (14) days advance notice of such need. The parties agree that the School Board may utilize the Shared Parking Area, located within the Environmental Education Complex, together and in conjunction with FAU at all times, provided, however, School Board acknowledges that FAU reserves the right to exclude School Board's use of the Shared Parking Area located within the Environmental Education Complex at times during the day that FAU has scheduled activities or all available parking spaces are required for the public use of the Environmental Education Complex. FAU shall provide School Board with a minimum of fourteen (14) days advance notice of such need. Each party shall provide the other with access through any gates to roadways accessing parking areas located within the Shared Parking Area during the hours stipulated above. If there is a gate to be located between the 03-Y Site and the Environmental Education Complex, it shall be controlled and maintained jointly by the FAU and the School Board.

D. Environmental Permitting. The School Board will be responsible for coordinating, obtaining and paying for any environmental permits required from the Palm Beach County Department of Environmental Resources Management, U.S. Army Corps of Engineers or other such environmental regulatory agency including the SFWMD or the LWDD, and all related permit expenses. FAU shall execute any permit applications or other documents required by the Palm Beach County Environmental Resource Management,

U.S. Army Corps of Engineers or other such environmental regulatory agency including the SFWMD or the LWDD or other regulatory agency, including but not limited to a deed dedicating a conservation easement over five (5) acres of the Ping Jog Property outside of the 03-Y Site. In addition, the FAU Foundation and/or FAU shall assist the School Board in satisfying all permit requirements or conditions, where the assistance is reasonable and results in a reduced overall cost to the School Board, including but not limited to allowing upland or wetland mitigation to be performed on the Pine Jog Property outside of the 03-Y Site. FAU will be responsible for communication of the overall development plans to all interested environmental preservation organizations.

E. Environmental Issues. The School Board will be responsible for exotic vegetation removal and natural area restoration, and all related costs, required for development of the 03-Y Site, and FAU will continue to be responsible for exotic vegetation removal and natural area restoration, and all related costs, for the development of the Environmental Education Complex, as well as development of environmental interpretation and walking trails. FAU will be responsible for any and all regulatory issues dealing with protected species. It is understood that the School Board will work cooperatively with FAU to ensure that appropriate measures are followed for any protected species discovered on site.

F. Removable Furnishings and Equipment. Each party will be responsible for purchasing the removable furniture and equipment it requires. The use of either party's equipment by the other party may be subject to a separate agreement and subject to fees established by the lending party. Each party will be responsible for maintaining and repairing the removable furniture and equipment it purchases for use in the Joint Use Facility.

G. Utility Usage. The School Board will be responsible for the cost of its usage of telephone, computer network access, heating, cooling, electricity, water and sanitary sewage associated with 03-Y Elementary, including the 03-Y Joint Use Facilities. FAU will be responsible for the cost of its usage of telephone, computer network access, heating, cooling, electricity, water and sanitary sewage associated with Environmental Education Complex, including the Environmental Education Complex Joint Use Facilities.

H. Security. The School Board shall provide adequate security for 03-Y Elementary, including the 03-Y Joint Use Facilities. FAU shall provide adequate security for the Environmental Education Complex, including the Environmental Education Complex Joint Use Facilities. Such security may be provided directly by FAU or by the School Board with the party receiving the service reimbursing the party providing the service for the actual and documented cost associated with providing security, as the parties may mutually agree.

I. Maintenance and Repairs. Each party shall, at its sole expense, perform or cause to be performed, services which will at all times keep their respective Facilities clean, neat, orderly, sanitary and presentable. Each party, at its sole expense, shall repair and maintain or cause to be repaired and maintained in good condition their respective Facilities and all improvements or alterations thereto in accordance with generally agreed upon practices/standards. Such repair and maintenance shall include but not be limited to the roof, structural support system, air conditioning, exterior walls, exterior painting, exterior doors, exterior windows, equipment, and exterior lighting fixtures, interior walls, interior doors, interior windows, interior painting, interior plumbing, furnishings, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, and shall at all times be based on a standard of care reflecting prudent property management. Each party, at its sole expense, shall maintain or cause to be maintained the grounds, shrubbery, storm water drainage and pavement of their respective Facilities in accordance with generally agreed upon practices/standards. It is also the responsibility of each party to ensure that such areas conform to all applicable health and safety laws, ordinances and codes which are presently in effect and which may subsequently be enacted during the term of this Agreement. Such maintenance may be provided directly by FAU or by the School Board with the party receiving the service reimbursing the party providing the service for the cost associated with providing such maintenance, as the parties may mutually agree.

J. Punchlist. Within 14 days of the receipt of a Certificate of Substantial Completion for the Environmental Education Complex, FAU will provide a punch list to the School Board. The School Board will ensure the contractor completes the punch list within thirty (30) days however, in the event said punchlist cannot be completed within said thirty

(30) day period and the School Board's contractor is diligently attempting in good faith to complete same, the time period shall be reasonably extended to allow the School Board's contractor additional time to complete.

7. Use of Facilities by the Parties.

A. FAU USE OF 03-Y JOINT USE FACILITIES: The School Board agrees to make the 03-Y Elementary Joint Use Facilities available for use by FAU, when not required for School Board activities and programs and/or previously approved School Board facility lease agreements, at no cost or expense to FAU. FAU's use of the 03-Y Joint Use Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the School Board's rules, regulations and policies governing the use of the School Board Facilities; (iii) all applicable local, state and federal laws. The FAU Representative shall submit all requests for use of the 03-Y Joint Use Facilities in writing to the Principal of 03-Y Elementary, or his or her designee, no less than fourteen (14) days prior to the date that FAU desires to use the 03-Y Joint Use Facilities. The School Board shall be responsible for ensuring that a written response to the request is provided to the FAU Representative within seven (7) days of the date of the request. In the event a request is denied, the reason for denial shall be stated in the written response. Nothing herein shall be interpreted as prohibiting the School Board from leasing the 03-Y Joint Use Facilities pursuant to and in accordance with School Board Policy 7.18 *Community Use of School Facilities*, so long as such use does not unreasonably interfere with FAU's use of the Environmental Education Complex.

B. SCHOOL BOARD USE OF ENVIRONMENTAL EDUCATION COMPLEX JOINT USE FACILITIES: FAU agrees to make available the Environmental Education Complex Joint Use Facilities for use by the School Board, when not required for FAU activities, at no cost or expense to the School Board. The School Board's use of the Environmental Education Complex Joint Use Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement; (ii) the FAU's rules, regulations and policies governing the use of the Environmental Education Complex's Facilities; (iii) all applicable local, state and federal laws. The 03-Y Elementary principal or his/her designee shall submit all requests for use of the Environmental Education Complex

Joint Use Facilities in writing to the Pine Jog Executive Director, or his/her designee, no less than fourteen (14) days prior to the date that the 03-Y Elementary desires to use the Environmental Education Complex Joint Use Facilities. The Pine Jog Executive Director shall be responsible for ensuring that a written response to the request is provided to the 03-Y Elementary Representative within seven (7) days of the date of the request. Nothing herein shall be interpreted as prohibiting FAU from leasing the Environmental Education Complex Joint Use Facilities pursuant to and in accordance with applicable FAU policies, so long as such use does not unreasonably interfere with the School Board's use of 03-Y Elementary.

C. FAU USE OF 03-Y ELEMENTARY NON-JOINT USE FACILITIES: The School Board agrees to make the 03-Y Elementary Non-Joint Use Facilities available for use by FAU, when not required for School Board activities and programs and/or previously approved School Board facility lease agreements and/or pursuant to a mutual use agreement with Palm Beach County or another entity of local government. FAU's use of the 03-Y Non-Joint Use Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement and standard School Board facility lease agreement; (ii) the School Board's rules, regulations and policies governing the use of the School Board Facilities; (iii) all applicable local, state and federal laws. Nothing herein shall be interpreted as prohibiting the School Board from leasing the 03-Y Non-Joint Use Facilities pursuant to and in accordance with School Board Policy 7.18 *Community Use of School Facilities*, so long as such use does not unreasonably interfere with FAU's use of the Environmental Education Complex.

D. SCHOOL BOARD USE OF ENVIRONMENTAL EDUCATION COMPLEX NON-JOINT USE FACILITIES: FAU agrees to make the Environmental Education Complex Non-Joint Use Facilities available for use by the School Board when not required for FAU activities and/or previously approved FAU facility lease agreements. The School Board's use of the Environmental Education Complex Non-Joint Use Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement and standard FAU facility lease; (ii) the FAU's rules, regulations and policies governing the use of the Environmental Education Complex's Facilities; and (iii) all applicable local, state and

federal laws. Nothing herein shall be interpreted as prohibiting FAU from leasing the Environmental Education Complex Non-Joint Use Facilities pursuant to and in accordance with applicable FAU policies, so long as such use does not unreasonably interfere with the School Board's use of 03-Y Elementary.

E. Supervision. Each party agrees to provide adequate supervision of its own activities to prevent bodily harm to the users and damage to the Facilities of the other party, taking into consideration the types of activities planned, when using the other's Facilities.

F. Damage to Facilities. In the event the Facilities of the other party are damaged, the party using the Facilities of the other party shall promptly notify the other party in writing of the damage and shall reimburse the other party for the actual costs to repair the damage. Reimbursement shall be made within sixty (60) days of a written request for reimbursement of costs.

G. Clean Up of Facilities. The Facilities of the other party shall be surrendered by the party using the Facilities of the other party in the same condition as they were accepted and shall cause to be removed from the Facilities of the other party all waste, garbage and rubbish resulting from such party's use of the Facilities of the other party.

H. Indemnification. With respect to the School Board's use of the School Board Facilities and Environmental Education Complex, the School Board acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledges that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The School Board agrees to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of its employees while using the 03-Y Site and Environmental Education Complex. The parties acknowledge that the foregoing shall not constitute an agreement by the School Board to indemnify FAU, nor a waiver of sovereign immunity, nor a waiver of any defense the School Board may have under such statute, nor as consent to be sued by third parties. With respect to FAU's use of the School Board Facilities, FAU

acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledges that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. FAU agrees to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of its employees while using the School Board Facilities. The parties acknowledge that the foregoing shall not constitute an agreement by FAU to indemnify the School Board, nor a waiver of sovereign immunity, nor a waiver of any defense FAU may have under such statute, nor as consent to be sued by third parties. This provision will survive the termination of this Agreement.

I. Insurance. Without waiving the right to sovereign immunity, the parties acknowledge that the School Board and FAU are self-insured for commercial general liability and automobile liability in the amounts specified in Florida Statutes Section 768.28, as may be amended from time to time. The School Board and FAU agree to maintain or to be self-insured for worker's compensation and employer's liability insurance in accordance with Chapter 440, Florida Statutes, as may be amended from time to time. Compliance with the requirements of this paragraph shall not relieve the School Board or FAU of their respective liability and obligations under this Agreement.

J. Dispute Resolution. In the event an issue arises which cannot be resolved between the School Board's Principal and the Pine Jog Executive Director regarding the use or availability of a Facility of the other party, the dispute shall be referred to the School Board's Chief Operating Officer and the Dean of the FAU College of Education who shall both make a good faith effort to resolve the dispute.

K. Acceptance of Facilities. Neither party shall be required to make any improvements or repairs to the Facilities of the other party as a condition of use of the Facilities by the other party. The parties shall accept the Facilities in their "As is", "Where is" condition. The parties acknowledge and agree that neither party has made any warranties or representations to the other party regarding the Facilities, including, but not

limited to, any representations or warranties regarding the suitability of the Facilities for use by the other party. In the event that either party's Facilities are unavailable for use by the other party for a previously scheduled event as a result of the need for unscheduled maintenance, emergency repairs or the occurrence any force majeure event, the owner of the Facility shall have no liability for any proximate, direct or indirect loss, damage, cost or injury suffered by the party seeking to use the other's Facility, other than to refund of any funds paid in advance for the use of the Facility.

L. License. Notwithstanding any provision of this Agreement to the contrary, the use the Facilities by either of the parties shall only amount to a license to use the Facilities of the other party on a non-exclusive basis, which license shall be revocable by the party licensing the use for any reason whatsoever. The parties agree that nothing in this Agreement shall be construed as granting either party any title, interest or estate in the Facilities of the other party.

8. Default.

The parties agree that, in the event either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) days written notice to cure the default, however, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. A default under this Agreement shall be deemed a default under the Ground Lease and entitle the non-defaulting party to all remedies thereunder.

9. Remedies.

Subject to the provisions of the Subordination and Standstill Agreement provided by FAU, upon the occurrence of an event of default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon sixty (60) days notice and such termination shall be effective at the end of the current school year. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise

1/25/06

EXHIBIT "B"

thereof. If at any time this Agreement is terminated, the Ground Lease shall simultaneously terminate.

10. Annual Appropriation.

The performance and obligations of each the School Board and FAU under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body for subsequent fiscal years.

11. Notice.

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

IF TO FAU:

Florida Atlantic University
Dean of the College of Education
777 Glades Road
Boca Raton, Florida 33431

WITH A COPY TO:

Florida Atlantic University
Pine Jog Executive Director
6301 Summit Boulevard
West Palm Beach, Florida 33415

IF TO FAU FOUNDATION:

Florida Atlantic University Foundation, Inc.
Attn: Chair
777 Glades Road
Boca Raton, Florida 33431

With a copy to:

Florida Atlantic University Foundation, Inc.
Attn: Executive Director
777 Glades Road
Boca Raton, Florida 33431

IF TO SCHOOL BOARD:

School District of Palm Beach County
Chief of Facilities Management

1/25/06

EXHIBIT "B"

3318 Forest Hill Boulevard
West Palm Beach, Florida 33406-5813

WITH A COPY TO:

Principal, 03-Y Elementary

12. Governing Law and Venue.

This Agreement shall be construed by and governed by the laws of the State of Florida. All legal action necessary to enforce the Agreement will be held in Palm Beach County.

13. Equal Opportunity Provision.

The parties agree that no person shall, on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status, or sexual orientation be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

14. Captions.

The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

15. Severability.

In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

16. Entirety of Agreement.

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

17. Incorporation by Reference.

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

18. Amendment.

Except as otherwise provided for in this Agreement, this Agreement may be modified and amended only by written instrument executed by the parties hereto.

19. Waiver.

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

20. Construction.

Neither party shall be considered the author of this Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event of a conflict between the provisions of the Ground Lease and the Cooperative Agreement, the provisions of the Ground Lease shall govern.

21. Recording.

This Agreement may not be recorded.

22. Effective Date.

This Agreement shall become effective when signed by the both the parties.

23. No Third Party Beneficiaries.

This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, and no other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

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1/25/06

EXHIBIT "B"

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the day
and year first above written.

Florida Atlantic University Board of Trustees

SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

By: _____

By: _____
Thomas E. Lynch, Chairman

ATTEST:

ATTEST:

Arthur C. Johnson, Ph.D.
Superintendent of Schools

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____ Attorney

School Board Attorney

Florida Atlantic University Foundation, a Florida non-profit corporation

By: _____

ATTEST:

Date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____ Attorney