

**COOPERATIVE AGREEMENT BETWEEN
FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES
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 (“Agreement”) is made this _____ day of _____, 2006, between the Florida Atlantic University Board of Trustees (“FAU”) 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, Florida Atlantic University Foundation, Inc. (“FAU Foundation”) currently owns and has agreed, subject to the terms of the Ground Lease (hereinafter defined) to convey in fee to FAU, certain property within the Pine Jog Property (hereinafter defined); and

WHEREAS, FAU and the School Board have entered into a Ground Lease of even date herewith wherein FAU leased to the School Board the 03-Y Site (the “Ground Lease”) which is located within 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 by the School Board on the 03-Y Site; and

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

WHEREAS, FAU desires the School Board to construct a 15,000 square foot Environmental Education Complex on the 03-Y Site; and

WHEREAS, the parties have similar missions and recognize opportunities for shared use of the School Board Facilities and the Environmental Education Complex facilities and educational synergy, thereby minimizing the duplication of facilities; and

WHEREAS, the parties' mission is to utilize the Facilities to be constructed by the School Board to further environmental education, environmental stewardship, environmental research and environmental curricula serving all ages and educational levels (the "Mission");

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 on the 03-Y Site, the School Board Facilities and Environmental Education Complex and for the parties to operate, maintain and utilize their respective facilities in accordance with the joint use provisions and procedures of this Agreement.

3. Definitions.

A. "School Board Facilities" means the 03-Y Elementary School improvements on the 03-Y Site.

B. "Joint Use Facilities" means those portions of the School Board Facilities and Environmental Education Complex that are shared by the parties as described in Exhibit One, and such mutually agreed additional facilities as established by the parties pursuant to the procedures of this Agreement.

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

D. "Environmental Education Complex" means the land and facilities including offices, classrooms, meeting rooms and parking lot constructed by the School Board on the 03-Y Site which will be transferred to FAU upon completion of construction by the School Board in accordance with the terms of this Agreement, and owned and operated by FAU.

E. "Pine Jog Property" means the approximately 150 acres more or less owned by the Florida Atlantic University Foundation, Inc. in the vicinity of Jog Road and Summit Boulevard and presently utilized for environmental education programs by FAU.

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 leased by FAU to the School Board in accordance with the Ground Lease, which 15 acres will be conveyed to FAU by FAU Foundation pursuant to an executed deed which has been delivered in escrow to FAU and may be accepted by FAU at any time prior to August 1, 2006 upon satisfactory completion of this Agreement and the Ground Lease, in FAU's sole discretion, which property is legally described in Exhibit "A" attached hereto, on which the School Board will construct the School Board Facilities and the Environmental Education Complex.

4. Obligations of FAU.

A. The FAU Foundation has delivered the deed described in Paragraph 3 G above to FAU as of the date of execution of this Agreement.

B. FAU's sole financial contribution toward the construction of the Environmental Education Center shall be in the form of land value of the 03-Y Site, hereinafter referred to as the "Land Value", which for purposes of this Agreement shall be deemed to be \$2,475,000. In the event that the estimated cost to construct the Environmental Education Complex exceeds the Land Value, both parties during the design and planning development phase will work together to reduce costs, to the extent possible, including but not limited to, through prudent value-engineering. FAU will not be responsible for contributing any additional funds to the construction costs for the Environmental Education Complex. The Land Value shall be attributed only to hard construction costs to build the

Environmental Education Complex and shall not be used for soft construction costs, including, but not limited to, costs for architects, land planners, engineers, construction design services, surveys, environmental surveys, permits and governmental fees, construction of 03-Y Site utilities and drainage, improvements required by the South Florida Water Management District, the Lake Worth Drainage District, or any other governmental entity or regulatory agency in connection with the construction of the Facilities by the School Board.

The School Board shall hold the Land Value in trust for the benefit of FAU for payment of the construction costs associated with the Environmental Education Complex. The Land Value shall be held in a non-segregated account and may be commingled with other School Board funds. All interest accrued on the Land Value, at the rate described below, commencing on June 1, 2006, shall be added to the Land Value. The Land Value and accrued interest shall be disbursed by the School Board periodically as invoices for construction costs of the Environmental Education Complex are submitted and become payable. The School Board shall provide quarterly reports to FAU reflecting the interest accrued on the Land Value and any disbursements from Land Value fund. Interest shall be deemed to accrue on the Land Value at the rate earned by the School Board on investments held and invested in the sole discretion of the School Board in accordance with School Board Policy 6.08. In the event this Agreement is terminated by either party prior to the commencement of construction of the Environmental Education Complex, the Land Value and all interest accrued thereon shall remain the property of and be retained by the School Board.

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 will be responsible for communication of the overall development plans to all interested environmental preservation organizations and the School Board agrees to reasonably cooperate with FAU in connection with such communications.

5. Obligations of School Board

A. The School Board will construct, at its sole expense, the Facilities (including but not limited to an approximate 960-student capacity elementary school scheduled to open no later than

August 2008 in accordance with State Requirements for Educational Facilities (SREF) and the Environmental Education Complex). It is the intent and agreement of the parties hereto that the School Board shall construct the School Board Facilities and the Environmental Education Complex at substantially the same time such that the completion date for each of the improvements is more or less simultaneous and School Board will use reasonable efforts to accomplish same. The School Board 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. The School Board covenants and agrees during the term of this Cooperative Agreement and Ground Lease to continuously operate the School Board Facilities as an elementary school, subject to force majeure and subject to the other terms and conditions as set forth herein. Notwithstanding any provision of this Agreement to the contrary, the School Board agrees that the outside date for completion of the Facilities is on or before August, 2009, unless otherwise agreed upon by the parties. Upon completion of construction by and the obtaining of a Certificate of Substantial Completion for the Environmental Education Complex, the School Board will provide FAU with a bill of sale for all of the Environmental Education Complex improvements constructed by the School Board, a transfer of any permits or warranties applicable to the Environmental Education Complex and a release and termination of the portion of the 03-Y Site from the Ground Lease for the Environmental Education Complex.

B. The School Board Facilities 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 shall pay for the construction of the Environmental Education Complex in accordance with Section 4.C. of this Agreement. The School Board acknowledges and agrees that FAU shall not be responsible for any cost overruns or additional expenses incurred in connection

with the construction of the Environmental Education Complex. The Environmental Education Complex will be designed and constructed SREF compliant and conform to all other applicable state and federal laws and codes governing design and construction

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 approximately 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 the School Board Facilities 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 of the School Board Facilities. Any clearing of native vegetation for construction of the Facilities shall be at the sole cost and expense of the School Board and in compliance with all requirements of governmental entities and regulatory agencies. Any additional exterior improvements outside the designated current and future building envelope or a change in the nature of the use of the School Board Facilities from its use as an educational facility will first require the written approval of FAU, which shall not be unreasonably withheld provided such change is consistent with the Mission. 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 School Board Facilities from an elementary school to a middle school would not require approval of FAU but proposed change in use to an ancillary facility would require approval of FAU and must be consistent with the Mission.

D. The School Board will be responsible for obtaining and paying for permits for the Facilities and paying the costs of related fees, from the South Florida Water Management District (SFWMD) and/or Lake Worth Drainage District (LWDD) and any other governmental entity or regulatory agency having jurisdiction over the construction of the Facilities.

E. With respect to the after-care programs to be operated at the School Board Facilities, 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 parties each agree to cooperate and use reasonable efforts to achieve the Mission. The Mission will be incorporated 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 exclusively together, unless mutually agreed otherwise, to accomplish a curriculum at the School Board Facilities 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 the School Board Facilities and the Environmental Education Complex, the following procedures will be put into place prior to the opening of the school and will last for the term of this Agreement:

- 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 School Board Facilities, as well as professional development opportunities for School Board educators.
- d. A standing committee will be established to provide input regarding science and environmental 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 School Principal, one or more

teachers at 03-Y Elementary School, Pine Jog Executive Director, and Dean of the FAU College of Education or his/her designee.

B. Attendance Boundaries. As School Board Facilities are needed to relieve overcrowding in area schools, the School Board will not be restricted from establishing attendance boundaries for the School Board Facilities. 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. Subject to the terms of this Agreement, FAU hereby grants unto School Board a non-exclusive license over, upon and across the parking areas, driveways and walkways within the Environmental Education Complex. Subject to the terms of this Agreement, School Board hereby grants unto FAU a non-exclusive license over, upon and across the parking areas, driveways and walkways within the 03-Y Site. The parking areas within the Environmental Education Complex and the 03-Y Site which are described on Exhibit One, 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 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. 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 for the Facilities required from the Palm Beach County Department of Environmental Resources Management, U.S. Army Corps of Engineers or any other governmental entity or regulatory agency including the SFWMD or the LWDD, and all related permit expenses. At no cost or expense to FAU, 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. In addition to the foregoing, FAU shall obtain from FAU Foundation an easement in favor of Palm Beach County (or other appropriate governmental agency) creating a conservation easement over five (5) acres of the Pine Jog Property outside of the 03-Y Site, which five (5) acres are described in Exhibit Two attached hereto. In addition, 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 owned by FAU outside of the 03-Y Site.

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. The School Board will be responsible for any and all regulatory issues dealing with protected species on the 03-Y Site. In the event that protected species must be relocated, the School Board shall undertake the relocation and the costs thereof. At no cost or expense of FAU it is understood that FAU will work cooperatively with the School Board to ensure that appropriate measures are followed for any protected species discovered on the 03-Y Site. Further, FAU, to the extent approved by governmental authorities, will accept protected species on other portions of the Pine Jog Property which it owns.

F. Removable Furnishings and Equipment. Notwithstanding the provisions of Section 4.C. of this Agreement, 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 the School Board 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. The design of the Facilities will provide for separate metering or sub-metering of the School Board Facilities and the Environmental Education Complex

H. Security. The School Board shall provide adequate security for the School Board Facilities. FAU shall provide adequate security for the Environmental Education Complex. 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. School Board shall in its contract for the construction of the Facilities, obtain assurances from the contractor that FAU shall receive relative to the Environmental Education Complex a construction warranty identical in scope and duration to the warranty received by the School Board for the School Board Facilities and that said warranty for the Environmental Education Complex shall run directly in favor of FAU. Within 60 days of the receipt of a Certificate of Substantial Completion for the Environmental Education Complex,

the School Board will use its best efforts to provide FAU with the warranties of the contractor applicable to the Environmental Education Complex as described above.

7. Use of Facilities by the Parties.

A. FAU USE OF SCHOOL BOARD FACILITIES/JOINT USE FACILITIES: The School Board agrees to make the School Board Facilities/Joint Use Facilities available for use by FAU, when not required for School Board activities and programs and/or previously approved School Board Facilities lease agreements, at no cost or expense to FAU. FAU's use of the School Board Facilities/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 School Board Facilities/Joint Use Facilities in writing to the Principal of 03-Y Elementary School, or his or her designee, no less than fourteen (14) days prior to the date that FAU desires to use the School Board Facilities/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 School Board Facilities/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) FAU's rules, regulations and policies governing the use of the Environmental Education Complex; (iii) all applicable local, state and federal laws. The 03-Y Elementary School 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 School 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 School Principal 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 the School Board Facilities.

C. FAU USE OF THE SCHOOL BOARD FACILITIES/NON-JOINT USE FACILITIES: The School Board agrees to make the School Board Facilities/Non-Joint Use Facilities available for use by FAU, when not required for School Board activities and programs and/or previously approved School Board Facilities 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 School Board Facilities/Non-Joint Use Facilities shall be subject to and in accordance with: (i) the terms and conditions of this Agreement and standard School Board Facilities 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 School Board Facilities/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. In the event that the leasing activities of the School Board interfere with FAU's use of the Environmental Education Complex, the parties agree to resolve the circumstance as provided for in Paragraph 7.J below.

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 the School Board Facilities. In the event that the leasing activities of FAU interfere with the School Board's use of the School Board Facilities, the parties agree to resolve the circumstance as provided for in Paragraph 7.J below.

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 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 03-Y Elementary School Principal and the Pine Jog Executive Director regarding the use or availability of the Facilities 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. Subsequent to the construction and completion of the Facilities by the School Board, 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 of any force majeure event, the owner of the Facilities 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 Facilities, other than to refund (if any) of any funds paid in advance for the use of the Facilities.

L. License. Except for the joint use provisions of this Agreement, 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.

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. In addition, either party may seek from an appropriate court declaratory, injunctive or other equitable relief for enforcement of any provision of this Lease, and the party against whom such injunctive or equitable relief is sought shall not seek or require the moving party to post any bond. These remedies are 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 thereof. This Agreement shall remain in effect until the expiration or earlier termination of the Ground Lease. If at any time this Agreement is terminated, the Ground Lease shall simultaneously terminate.

10. Acknowledgement of Recorded Restriction and Reverter Provisions.

The School Board acknowledges that there exists recorded in the Public Records of Palm Beach County, Florida, restrictions and reverters (“Restrictions and Reverters”) which apply to and affect the 03-Y Site as follows:

- A. Deed recorded in Official Records Book 647 at Page 501;
- B. Deed recorded in Official Records Book 1794 at Page 1006;
- C. Deed recorded in Official Records Book 10693 at Page 1844.

The School Board agrees and covenants with FAU that the occupation, use and operation of the School Board Facilities at all times will be in compliance with the Restrictions and Reverter provisions in the above-described deeds and the School Board will immediately remedy any breach or violation on the Premises of any of the Restrictions and Reverters in the above-described deeds

11. 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. The School Board and FAU will take all reasonable actions and good faith efforts to obtain the appropriations to perform their respective obligations of the School Board as set forth in the Ground Lease and this Agreement.

12. Notice.

Whenever under this Lease a provision is made for any demand, notice or declaration of any kind or where it is deemed desirable or necessary by either party to give or serve any such notice, demand or declaration to the other, unless otherwise specifically provided herein, all notices to be

given hereunder shall be in writing and sent to the parties as hereinafter provided, by hand delivery; certified mail, return receipt requested, postage prepaid; by a nationally recognized overnight courier service; or by facsimile transmission (with a copy also sent by one of the other approved communication methods set forth herein not later than the next business day). Any such notice shall be deemed given upon the earlier of receipt by the addressees if hand delivered (or attempted delivery if refused by the intended recipient thereof), on the next business day after deposit with a recognized overnight courier service, on the day given if sent by facsimile transmission provided that the party making such delivery receives an electronic confirmation setting forth the proper phone number receiving such transmission and that the entire transmission has been properly received by the addressee without communication error, or on the third (3rd) day following deposit thereof in the United States mail. The place to which any party is entitled to receive any notice and the person(s) or attorney(s) designated to receive any notice on behalf of any party may be changed by such party by giving notice thereof in accordance with the foregoing provisions. The attorneys for the Parties are authorized to send and receive notices and demands on behalf of their respective clients hereunder.

The parties hereby designed the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

If to FAU at: Attn: Chair
Florida Atlantic University
Dean of the College of Education
777 Glades Road
Boca Raton, Florida 33431

with copies to:

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

Florida Atlantic University
Attn: General Counsel
777 Glades Road
Boca Raton, Florida 33431

If to the School Board at:
School District of Palm Beach County
Chief of Facilities Management
School District of Palm Beach County
3318 Forest Hill Boulevard
West Palm Beach, FL 33406

with a copy to:
School Board of Palm Beach County,
Florida
Attn: Chief Counsel
3300 Forest Hill Boulevard, C302
West Palm Beach, FL 33406

13. 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.

14. 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.

15. Captions.

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

16. 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.

17. 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.

18. Incorporation by Reference.

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference. The terms of the Ground Lease are hereby incorporated by reference herein.

19. Amendment/Assignment.

Except as otherwise provided for in this Agreement, this Agreement may be modified and amended only by written instrument executed by the parties hereto. Except as otherwise expressly provided herein, this Agreement may not be assigned by either party hereto without the prior written consent of the other party which shall not be unreasonably withheld.

20. Waiver.

Notwithstanding any course of conduct, action or usage by either party, 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 and shall not be deemed an amendment of this Agreement.

21. 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.

22. Recording.

This Agreement may not be recorded.

23. Effective Date.

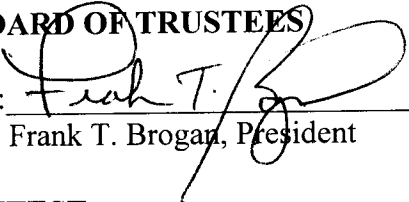
This Agreement shall become effective when signed by the both the parties.

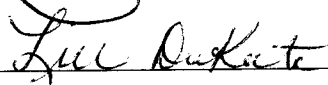
24. No Third Party Beneficiaries.

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.

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


**FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES**

By: 
Frank T. Brogan, President

ATTEST:


Date: 7/14/06

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

 7/10/06
FAU Attorney

**SCHOOL BOARD OF
PALM BEACH COUNTY, FLORIDA**

By: _____
Thomas E. Lynch, Chairman

ATTEST:

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

Date: _____

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

 7/18/06
School Board Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF GROUND LEASE PREMISES

Lots 3, 4 and 5, inclusive, of the Pine Jog Subdivision according to the Plat thereof recorded in Plat Book 23, Page 245 of the Public Records of Palm Beach County, Florida

EXHIBIT ONE
JOINT USE FACILITIES

ENVIRONMENTAL EDUCATION COMPLEX JOINT USE FACILITIES

All School Board Facilities (excluding administrative offices and areas) and all of the Environmental Education Complex (excluding administrative offices and areas).

ENVIRONMENTAL EDUCATION COMPLEX NON-JOINT USE FACILITIES

Administrative offices and areas.

SCHOOL BOARD FACILITIES JOINT USE FACILITIES

All School Board Facilities (excluding administrative offices and areas) and all of the Environmental Education Complex (excluding administrative offices and areas).

SCHOOL BOARD FACILITIES/NON-JOINT USE FACILITIES

Administrative offices and areas.

EXHIBIT TWO
LEGAL DESCRIPTION OF CONSERVATION EASEMENT

Lot 6 of the Pine Jog Subdivision according to the Plat thereof recorded in Plat Book 23, Page 245 of the Public Records of Palm Beach County, Florida