



**Item: VII. b.**

**Thursday, November 15, 2012**

**SUBJECT: AMENDMENT TO CAMPUS DEVELOPMENT AGREEMENT**

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**PROPOSED ACTION**

*Approve the First Amendment to the Amended and Restated Campus Development Agreement and the Interlocal Agreement between Florida Atlantic University Board of Trustees and the City of Boca Raton.*

**BACKGROUND INFORMATION**

This amendment to the existing CDA and the Interlocal Agreement will allow FAU to increase the annual number of events held at the Stadium as summarized below:

MATTER	CURRENT	PROPOSED
Stadium Ticketed Events	<b>15 Maximum consisting of:</b> <ul style="list-style-type: none"> <li>• 6 FAU Football Games (1 weekday Mon. – Thurs.)</li> <li>• 8 Friday night events</li> <li>• 1 special event</li> </ul>	<b>26 Maximum consisting of:</b> <ul style="list-style-type: none"> <li>• 6 FAU Football Games (1 weekday Mon. – Thurs.)</li> <li>• 19 other events:               <ul style="list-style-type: none"> <li>- weekends (Noon Friday – 11:00 PM Sunday)</li> <li>- weekdays when FAU is not in session</li> <li>- weekdays when FAU is in session, with City approval</li> </ul> </li> <li>• 1 special event (any day/time)</li> </ul>
Ticketed events with less than 5,000 patrons	Included in above limitations	Excluded from above limitations
Non-ticketed events (Faculty, Staff, Students, Families)	No Limit	No Limit
Shuttle Bus Payment	Required by CDA; exhibit established annual costs based on estimated figures 2012 costs <b>\$426,8165</b>	Required by CDA; revised exhibit requires reimbursement of actual costs  Revised 2012 costs <b>\$165,000</b>
Requirements to Address Impacts	All events	More than 5,000 patrons
Notice to City	14 days	14 days for events with more than 5,000 patrons

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### IMPLEMENTATION PLAN/DATE

The City has conducted two public hearing meetings and has passed a resolution to approve the proposed amendment. The amendment will become fully effective upon BOT approval and President Saunders' signature.

### FISCAL IMPLICATIONS

The proposed amendment will allow FAU the opportunity to schedule more events with greater flexibility at the FAU Stadium, thereby generating more revenue. Additionally, the amendment will reduce FAU's obligation for Shuttle Bus Payments.

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**Supporting Documentation:** *First Amendment to the Amended and Restated Campus Development Agreement and Interlocal Agreement between the Florida Atlantic University Board of Trustees and the City of Boca Raton*

**Presented by:** Mr. Tom Donaudy, University Architect &  
Vice President for Facilities

**Phone:** 561-297-2663

FIRST AMENDMENT TO  
AMENDED AND RESTATED CAMPUS DEVELOPMENT AGREEMENT  
BETWEEN  
THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES  
AND  
THE CITY OF BOCA RATON

AND

FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT  
BETWEEN  
THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES  
AND  
THE CITY OF BOCA RATON

This AMENDMENT ("Amendment") is made and entered into this 2nd day of November, 2012 ("Effective Date") by and between the CITY OF BOCA RATON ("City"), a municipal corporation of the State of Florida, and the FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida ("FAU").

WITNESSETH:

WHEREAS, on November 24, 2009, the City and FAU entered into an Amended and Restated Campus Development Agreement ("CDA") pursuant to Section 1013.30(15), Florida Statutes; and

WHEREAS, the FAU Boca Raton Campus Master Plan authorized by the CDA includes a Stadium consisting of a maximum of 30,000 seats that may be built in two phases; and

WHEREAS, on October 26, 2011, the City and FAU entered into an Interlocal Agreement (the "Interlocal Agreement"), pursuant to Section 14.7 of the CDA; and

WHEREAS, FAU has constructed a 30,000-seat Stadium and began using the Stadium on October 15, 2011; and

WHEREAS, the City and FAU now desire to amend the CDA with respect to certain provisions regarding the payment of costs for Shuttle Bus Service provided by the City and for certain provisions regarding the Stadium and have incorporated those amendments herein; and

WHEREAS, the City and FAU now desire to amend the Interlocal Agreement with respect to certain provisions regarding the Stadium and have incorporated those amendments herein;

NOW THEREFORE, on consideration of the covenants contained herein and the performance thereof, the parties do hereby agree as follows:

1. The foregoing recitals are true and correct and are incorporated as though fully set forth herein.
2. Article 12.6 of the CDA is hereby amended by replacing existing Exhibit "C-Table 2b" with Exhibit "C-Table 2b Revised" as attached hereto.
3. Article 14.7 of the CDA is hereby deleted in its entirety and replaced with the following:

14.7 The BOT and City agree that the design and construction of the Stadium will consist of a maximum 30,000 seat stadium that may be built in two phases. It is agreed that the Stadium will hold no more than a total of twenty-six (26) scheduled events per



year (July 1-June 30), including: (i) a maximum of six FAU football games on campus, of which only one will be a weekday (Monday – Thursday) game, (ii) other events which may be scheduled: (a) between Friday at noon and Sunday at 11:00 PM; (b) on weekdays when FAU classes are not in session due to holidays or breaks, or (c) on weekdays when FAU classes are in session but only with the prior written consent of the City, and (iii) one special event per year which is not restricted with regard to day and time.

Notwithstanding the foregoing, nothing herein shall limit or impact the number of events held in the Stadium that are: (i) not events for which tickets are sold or provided to the general public but are events primarily attended by and/or intended for FAU faculty, staff, students and family ("FAU-internal Events"), or (ii) events for which the number of tickets sold or provided or the number of patrons reasonably anticipated to attend is 5,000 or less ("Small-scale Events").

4. Article 3 of the Interlocal Agreement is hereby deleted in its entirety and replaced with the following:

Each party represents that it has all necessary authority to enter into this Agreement. The City further represents that this Agreement has been duly authorized and approved by the City Council and has been the subject of two duly noticed public hearings as required by the CDA.

Both parties agree that the size of the Stadium subject to this Agreement shall not exceed 30,000 seats, and no more than 26 scheduled events shall be held at the Stadium in any year, as more fully set forth in the CDA. Both parties agree that without the faithful performance of each party's obligations as provided in this Agreement no event for which more than 5,000 tickets are sold or provided to the general public may occur at the Stadium. Both parties further agree that no event for which more than 30,000 tickets are sold or provided to the general public may occur at the Stadium unless and until the requirements of Articles 6 through 11, inclusive, of this Agreement are addressed.

Notwithstanding the foregoing, nothing herein shall limit or impact the number of events held in the Stadium that are: (i) not events for which tickets are sold or provided to the general public but are events primarily attended by and/or intended for FAU faculty, staff, students, and family ("FAU-internal Events"), or (ii) events for which the number of tickets sold or provided or the number of patrons reasonably anticipated to attend is 5,000 or less ("Small-scale Events"). Any services requested from and provided by the City in connection with FAU-internal Events or Small-scale Events shall be provided at cost, and FAU agrees to pay invoices for such costs, in accordance with the requirements of this Agreement.

5. Article 6 of the Interlocal Agreement is hereby deleted in its entirety and replaced with the following:

FAU agrees to endeavor to provide the City 30 days but not less than 14 days prior notice of any and all ticketed events of more than 5,000 patrons to be held at the Stadium. Wherever possible, FAU will establish an annual October 1 through September 30 schedule of planned events at least 60 days prior to October 1 in each year. The establishment of an annual schedule does not preclude the addition of other ticketed events of more than 5,000 patrons up to the limit of 26 events as permitted by the CDA, but FAU shall provide not less than 14 days' notice of any event to be added to an established annual schedule. The City and FAU will meet not less than 15 days in advance to discuss each ticketed event of more than 5,000 patrons planned at the Stadium in order to determine the anticipated impacts and the required mitigation as discussed in Articles 8, 9, and 10 of this Agreement. FAU shall use reasonable efforts to

post FAU-internal Events and Small-scale Events to be held at the Stadium on the FAU master calendar for review by the City.

6. Except as specifically modified by this amendment, all other provisions of the CDA and the Interlocal Agreement shall remain in full force and effect and shall be binding upon the parties in accordance with their terms.

IN WITNESS WHEREOF, this Amendment has been executed by the parties hereto on the day and year indicated.

FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES

By: \_\_\_\_\_  
M.J. Saunders, President

LEGAL FORM APPROVED

\_\_\_\_\_  
General Counsel

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared \_\_\_\_\_, of the Florida Atlantic University Board of Trustees, to me known to be the person described herein, and who executed the foregoing and acknowledged the execution hereof to be his free act and deed, for the purposes therein mentioned.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

Approved by the City Council of the City of Boca Raton on October 23, 2012.

CITY OF BOCA RATON

By: Susan Whelchel  
Susan Whelchel, Mayor

APPROVED AS TO FORM

Linda M. Maxson for dist  
City Attorney

Attest: Susan S. Saxton  
Susan S. Saxton, City Clerk



**EXHIBIT "C" – Table 2b "REVISED 09/14/2012  
Transportation –Shuttle Cost Payments**

<b>SHUTTLE COST ESTIMATE</b>		Includes the continuation of the current Palm Tran 94 shuttle route operated by a City provider. Service consists of 2 buses with 5 days a week operation. FAU is responsible for directly contracting for Saturday/Sunday "game day" or other event operation of the service. The FAU cost is based on the actual contract cost for the service plus administrative costs of 2.5 percent (in 2013 and 2014).			
<b>SHUTTLE ROUTE: FAU -Tri-Rail (Per current 94 Route alignment) Per Current Palm Tran 94 Route operated by City provider</b>					
YEAR	Number of Stops	Number of Vehicles	Days and Hours of Operation <sup>2</sup>	FAU Cost	
				Total	
2010	22	2	Mon.-Fri.: 6:45 am-9:00 pm	Pre-funded	2010/2011 payments are vested under this CDA Agreement from funds paid in 2002 CDA for vesting 15,000 seat Arena
2011	22	2	Mon.-Fri.: 6:45 am-9:00 pm	Pre-funded	
2012	22	2	Mon.-Fri.: 6:45 am-9:00 pm	\$165,000	Pay cost annually by July 15
2013	22	2	Mon.-Fri.: 6:45 am-9:00 pm	\$169,125	Pay cost annually by July 15
2014	22	2	Mon.-Fri.: 6:45 am-9:00 pm	\$169,125	Pay cost annually by July 15
2015	22	2	Mon.-Fri.: 6:45 am-9:00 pm	\$179,300 Estimate	Pay cost annually by July 15
2016	22	2	Mon.-Fri.: 6:45 am-9:00 pm	\$179,300 Estimate	Pay cost annually by July 15
				<b>\$861,850</b>	

\* A 6% inflation factor was applied in 2015.

<sup>2</sup>Hours of operation are Mon-Fri 6:55 am - 9:00 pm (northbound route) and 6:45 am - 8:35 pm (southbound route) for a total of 25.5 operating hours per day.

FAU to directly contract for 9:00 am – 9:00 pm service on weekends (Saturday/Sunday) for weekend "game days" or other events