



Item: e.

Wednesday, November 18, 2009

SUBJECT: JOHN D. MACARTHUR CAMPUS DEVELOPMENT AGREEMENT

PROPOSED BOARD ACTION

Recommend approval by the Board of Trustees of the John D. MacArthur Campus Development Agreement ("CDA") between Florida Atlantic University Board of Trustees and the Town of Jupiter.

BACKGROUND INFORMATION

On November 19, 2008, the Board adopted the Master Plan for the John D. MacArthur Campus. Pursuant to Subsection 1013.30(15), Florida Statutes, following the adoption of the Master Plan, the university is required to enter into a CDA with the Town of Jupiter to address the impacts created by the proposed development on public facilities and services, including roads, sanitary sewer, solid waste, drainage/stormwater management, potable water, parks and recreations, and public transportation. Once the agreement is executed and the university pays its fair share cost for improvements as identified in the agreement, all development on campus may proceed without further review by the host local government as long as it is consistent with the adopted campus master plan and the CDA.

The development identified in the John D. MacArthur Campus Master Plan will cause or contribute to the degradation of the operation conditions on the level of service standards adopted by the Town of Jupiter. The proposed CDA constitutes an agreement for either the full payment or a portion of the university's fair share cost for these improvements in accordance with terms set forth in the CDA.

This Campus Development Agreement has been reviewed with the Town of Jupiter staff and the Town staff is preparing to implement the process required under law for the appropriate host community approval of the CDA.

IMPLEMENTATION PLAN/DATE

The John D. MacArthur Campus Development Agreement will be effective for a term of ten years upon approval and execution by the Board of Trustees.

FISCAL IMPLICATIONS

Upon execution of the CDA, impact fees in the amount of \$1,568,862 shall be paid to the Town of Jupiter from the 2009-10 Public Education Capital Outlay (PECO) funds appropriated in the amount of \$2,000,000 for repayment towards T-2 (Scripps second temporary facility). The balance of the PECO funds shall be paid to Palm Beach County in accordance with the Amendment to the Temporary Funding Agreement. The payment to the Town of Jupiter shall constitute the BOT's fair share cost of these improvements in accordance with the terms as set forth in the campus development agreement.

Supporting Documentation: **Campus Development Agreement between Florida Atlantic University Board of Trustees and the Town of Jupiter**

Presented by: Mr. Tom Donaudy, University Architect & VP

Phone: 561-297-2663

**AMENDED AND RESTATED CAMPUS DEVELOPMENT AGREEMENT
BETWEEN THE FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES
AND THE TOWN OF JUPITER**

THIS AMENDMENT TO THE CAMPUS DEVELOPMENT AGREEMENT (Agreement) between the **TOWN OF JUPITER, FLORIDA** (herein referred to as the "Town"), a municipal corporation of the State of Florida, and the **FLORIDA ATLANTIC UNIVERSITY (FAU) BOARD OF TRUSTEES** (hereinafter referred to as the "BOT"), a public body corporate of the State of Florida is made and entered into this ____ day of _____, 2009 ("Effective Date").

W I T N E S S E T H:

WHEREAS, the John D. MacArthur Campus of FAU was sited and has been constructed adjacent to the Abacoa Development of Regional Impact (DRI) within the Town of Jupiter, Florida and

WHEREAS, the existing facilities on the John D. MacArthur Campus of FAU have been developed in accordance with a Campus Master Plan adopted on July 10, 1998, subsequently amended on March 15, 2006, as depicted in "EXHIBIT A", which is attached hereto and incorporated herein; and

WHEREAS, the John D. MacArthur Campus of FAU is considered to be a vital public facility which provides research and educational benefits of local, regional, statewide and national importance, and which further provides substantial educational, economic, and cultural benefits to the Town, and

WHEREAS, in recognition of the unique relationship between campuses of the State University System and the local governments in which they are located, the Florida Legislature has established special provisions for campus planning and concurrency in Section 1013.30, Florida Statutes, which supersede the requirements of Part II of Chapter 163, Florida Statutes, except when stated otherwise, and

WHEREAS, the BOT has prepared and adopted an amendment to the John D. MacArthur Campus Master Plan dated September 10, 2008 for FAU in compliance with the requirements set forth in Subsections 1013.30 (3)-(6), Florida Statutes, attached hereto as "EXHIBIT A" and

WHEREAS, following the adoption of the amendment to the Campus Master Plan by the BOT, the BOT and Town are required pursuant to Subsection 1013.30(15), Florida Statutes, to amend the existing Campus Development Agreement, and

WHEREAS, the existing Campus Development Agreement identified the impacts reasonably expected over the term of the development of the John D. MacArthur Campus on public facilities and services, including roads, sanitary sewer, solid waste, drainage/stormwater management, potable water, parks and recreation, and public transportation, and

WHEREAS, the Campus Development Agreement is to identify any deficiencies in public facilities and services which are attributable to the development identified in the adopted Campus Master Plan, and

WHEREAS, this amendment to the Campus Development Agreement is intended to address any improvements to capital facilities or services located within the Town which are necessary to eliminate any identified deficiencies, and

WHEREAS, this amendment to the Campus Development Agreement specifies the BOT's "fair share" of the cost of all improvements to capital facilities or services located within the Town which is necessary to eliminate any identified deficiencies of same at the John D. MacArthur Campus.

NOW, THEREFORE, in consideration of the covenants contained herein and the performance thereof, the

parties do hereby agree as follows:

1.0 RECITATIONS

The foregoing recitals are true and correct and are incorporated herein.

2.0 DEFINITIONS

- 2.1 The term "Administration Commission" means that entity created pursuant to Section 14.202, Florida Statutes.
- 2.2 The term "affected person" means a host local government; an affected local government; any state, regional or federal agency; or a person who resides, owns property, or owns or operates a business within the boundaries of a host local government or affected local government.
- 2.3 The term "aggrieved or adversely affected person" means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.
- 2.4 The term "campus master plan" means the Florida Atlantic University Update to the John D. MacArthur Campus Master Plan dated September 10, 2008, which was prepared and adopted consistent with the requirements of Subsections 1013.30 (3)- (6), Florida Statutes by the BOT on November 19, 2008.
- 2.5 The term "comprehensive plan" means the Town of Jupiter Comprehensive Plan, which was prepared and adopted consistent with the requirements of Subsections 163.3177 and 163.3178, Florida Statutes.
- 2.6 The term "concurrency" means that public facilities and services needed to support development are available when the impacts of such development occur.
- 2.7 The term "development" means the carrying out of any building activity, or the making of any material change in the use or appearance of any structure or land or the subdivision of land.
- 2.8 The term "development of regional impact" means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.
- 2.9 The term "force majeure" means acts of God, earthquakes, blizzards, tornadoes, hurricanes, fire, flood, sinkholes, malicious mischief, insurrection, riots, strikes, lockouts, boycotts, picketing, labor disturbances, landslides, explosions, epidemics, compliance with any court order, ruling, or injunction.
- 2.10 The term "public facilities and services" means potable water, sanitary sewer, solid waste, drainage/stormwater management, parks and recreation, roads, and public transportation facilities.
- 2.11 The term "state land planning agency" means the Department of Community Affairs.
- 2.12 The term "LRD" means the Loxahatchee River Environmental Control District.

3.0 INTENT AND PURPOSE

- 3.1 This Agreement is intended to implement the requirements of concurrency contained in Subsections 1013.30 (11)-(15), Florida Statutes. It is the intent of the BOT and Town to ensure that adequate

potable water, sanitary sewer, solid waste, drainage/stormwater management, parks and recreation, roads, and public transportation facilities are available consistent with the level of service standards for these facilities as adopted in the Town's comprehensive plan.

- 3.2 This Agreement is intended to address concurrency implementation and the mitigation of impacts reasonably expected over the term of this Agreement on capital facilities and services located within the Town, including roads, sanitary sewer, solid waste, drainage/stormwater management, potable water, parks and recreation, and public transportation.

4.0 GENERAL CONDITIONS

- 4.1 The conditions, terms, restrictions and other requirements of this Agreement shall be legally binding and strictly adhered to by the BOT and the Town.
- 4.2 The BOT represents that it has full power and authority to enter into and perform this Agreement in accordance with its terms and conditions without the consent or approval of any third parties, and it constitutes the valid, binding and enforceable Agreement of the BOT.
- 4.3 The Town represents that it has full power and authority to enter into and perform this Agreement in accordance with its terms. Further, the Town represents that this Agreement has been duly authorized and approved by the Town Council and having been the subject of one or more duly noticed public hearings as required by law; and does not violate any other Agreement to which the Town is a party, the Constitution of the State of Florida, or any charter, ordinance, judgment or other requirement of law to which the Town is presently subject.
- 4.4 State and regional environmental program requirements shall remain applicable, except that all other sections of Part II of Chapter 163, Florida Statutes, and Section 380.06, Florida Statutes, are superseded as expressly provided in Section 1013.30, Florida Statutes.
- 4.5 Except as specifically referenced herein, no development permits, development orders, or development approval shall be required from the Town for the construction of projects subject to this Agreement.
- 4.6 In the event that all or a portion of a project listed in the Campus Master Plan and Exhibit "A" to this Agreement should be destroyed by a fire, storm, or other force majeure, the BOT, its grantees, successors and assigns, shall have the right to rebuild and/or repair the project, so long as the project is rebuilt to the same size and footprint as the destroyed project. The time periods for rebuilding or repair shall be automatically extended so long as there is strict compliance with this Agreement.
- 4.7 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in or incorporated into this Agreement. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 4.8 Upon execution of this Agreement, all campus development identified in Exhibit "A", which summarizes projects identified in the adopted FAU John D. MacArthur Campus Master Plan, may proceed without further review by the Town provided the development proposed is consistent with the terms of this Agreement and the FAU John D. MacArthur Campus Master Plan.
- 4.9 If any part of this Agreement is found by a court of law to be contrary to, prohibited by, or deemed invalid under any applicable law or regulation, as referenced in Section 14.0 of this Agreement, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid. The remainder of this Agreement hereof shall not be invalidated thereby and shall be given full force and effect.

5.0 DURATION OF AGREEMENT

This Agreement shall become effective upon execution by both parties and shall remain in effect for a period of 10 years from the Effective Date, unless extended by the mutual consent of the BOT and the Town, in accordance with Section 15.0 of this Agreement.

6.0 GEOGRAPHIC AREA COVERED BY THIS AGREEMENT

The real property subject to this Agreement and included within is identified in Exhibit "B", attached hereto and incorporated herein by this reference.

7.0 DESCRIPTION OF PUBLIC FACILITIES AND SERVICES

The following public facilities and services are available to support campus development authorized under the terms of this Agreement.

- 7.1 The FAU John D. MacArthur Campus is located within the Northern Palm Beach County Water Improvement District's Unit of Development Number 9. Existing stormwater management facilities consist of one water control structure at the west end of Northern Palm Beach County Water Improvement District Canal EPB 2D. The BOT has dedicated to the Northern Palm Beach County Water Improvement District a 90' wide stormwater management easement along Donald Ross Road, a 55' wide stormwater management easement along Central Boulevard, and a 35' wide landscape buffer along Central Boulevard.
- 7.2 The FAU John D. MacArthur Campus is part of the water distribution system of the Abacoa DRI. The campus distribution systems connected to the Town's off-campus water transmission network via three (3) meters surrounding the campus property. The Town owns, operates and maintains all off-campus potable water facilities up to and including aforementioned meters while the BOT owns, operates and maintains all potable water facilities within the campus.
- 7.3 There are existing sanitary sewer facilities on-campus. The campus sewage collection system serves only the FAU John D. MacArthur Campus, and will discharge to an off-campus force main serving the Abacoa DRI. The gravity sewer mains, pump station, and on-campus force main are owned, operated and maintained by the Loxahatchee River Environmental Control District. Service laterals from mains to buildings and satellite pump stations for remote areas such as recreational fields and entrance areas will be owned, operated and maintained by the BOT.
- 7.4 A private contractor provides solid waste collection to the Town and provides the same service to the campus. Solid waste is transported to a Palm Beach Solid Waste Authority landfill (Site Number 7) in northern Palm Beach County, which is permitted through the year 2013 but has capacity projected through the year 2021.
- 7.5 The Town provides parks and recreation opportunities and the Abacoa DRI contains recreation facilities. The BOT will provide parks and recreation facilities consistent with the FAU John D. MacArthur Campus Master Plan.
- 7.6 The campus is located in the southwest portion of the Abacoa DRI, which is situated within one mile of Interstate 95 (I-95), Military Trail, and Alternate A1A. Its location near these major north-south arterial roadways provides adequate access for commuting students. Donald Ross Road, a major east-west arterial roadway, bounds the campus on the south, and also provides convenient commuter access to nearby major arterials.
- 7.7 PalmTran, the Palm Beach County Transit Authority, currently provides transit service (Route 10) to the Abacoa DRI, with a stop at University Drive and Central Boulevard. Route 10 will be extended in 2010

to provide service directly to the John D. MacArthur Campus of FAU.

8.0 LEVEL OF SERVICE (LOS) STANDARDS ESTABLISHED BY THE TOWN

8.1 The Town of Jupiter Comprehensive Plan establishes a level of service standard for drainage/stormwater management facilities which requires the retention of the first one-half inch of the runoff of a 25-year, three-day storm, as per the South Florida Water Management District Permit Manual IV.

8.2 The Town of Jupiter Comprehensive Plan establishes the following level of service standards for potable water facilities:

Residential Accounts --- 153 gallons per capita per day

Commercial Accounts --- 100 gallons per day per 1000 square feet

8.3 The Town of Jupiter Comprehensive Plan establishes a level of service standard for sanitary sewer facilities of 85 gallons per capita per day.

8.4 The Town of Jupiter Comprehensive Plan establishes a level of service standard for solid waste of 7.13 pounds per capita per day.

8.5 The Town of Jupiter Comprehensive Plan establishes the following level of service standard for parks, open space, and recreational facilities:

ACTIVITY	STANDARD
Tennis	1 court per 4000 population
Baseball	1 field per 6000 population
Softball	1 field per 12,000 population
FootballSoccer	1 field per 12,000 population
Basketball	1 field per 5,000 population
Racquetball/Handball	1 court per 4,000 population
Resource-based Park	1 court per 6,000 population
Exercise Trail	1 park per 30,000 population
Swimming Pool	1 trail per 12,000 population
Community Center (expansion or addition in increments of 30,000 square feet)	1 pool per 65,000 population
Lacrosse	1.5 square foot per person
Volleyball	
Skate Parks	1 field per 15,000 population
Roller Hockey	1 field per 12,000 population
	1 park per 30,000 population
	1 rink per 30,000 population

8.6 The Town of Jupiter, in cooperation with Palm Beach County and the Florida Department of Transportation, shall endeavor to maintain an adopted level of service standard of D on all County and State maintained roads through coordination with the County; except for those included in the Indiantown Road Corridor Master Plan pursuant to Transportation Element Objective 3.6 or those identified as CRALLS facilities. The Town of Jupiter shall maintain the following level of service standards for Town-maintained roadways:

- A. Peak-hour two-way – LOS D
- B. Daily – LOS C
- C. Intersection – LOS D

9.0 FINANCIAL ARRANGEMENTS BETWEEN THE BOT AND SERVICE PROVIDERS

The BOT have entered into the following financial arrangements for the provision of public facilities and services necessary to support the continued growth and development of the FAU John D. MacArthur Campus:

- 9.1 The BOT agrees to mitigate all stormwater concurrency on a monthly basis through the payment of the Town's Stormwater Utility Fee.
- 9.2 The BOT has entered into an agreement with the Town for the provision of potable water facilities or service to the campus.
- 9.3 The BOT has or will by **December 15, 2009** enter into an agreement with the LRD for the provision of sanitary sewer facilities or service to the campus, the form of which is attached hereto as Exhibit "D".
- 9.4 There are no financial arrangements between the BOT and the Town for the collection and disposal of solid waste facilities or service to the campus and the Town has no obligation to provide such services. The BOT agrees to contract directly with a franchise hauler approved by the Town.
- 9.5 There are no financial arrangements between the BOT and the Town or any other entity for the provision of parks and recreation facilities or service to the campus.
- 9.6 There are no financial arrangements between the BOT and the Town or any other entity for the provision of transportation facilities, including public transit facilities and services, to the campus.

10.0 IMPACTS OF CAMPUS DEVELOPMENT ON PUBLIC FACILITIES AND SERVICES

- 10.1 The BOT and the Town agree that development proposed in the adopted FAU John D. MacArthur Campus Master Plan in Exhibit "A" shall not degrade the operating conditions for stormwater management facilities below the level of service standards adopted by the Town or violate the conditions of the Abacoa Surface Water Management System Permit as issued by the South Florida Water Management District. Without compensating the Town through the payment of monthly Stormwater Utility Fees, the reliable level of service currently provided by the Town will be jeopardized.
- 10.2 The BOT and Town agree that development proposed in the adopted FAU John D. MacArthur Campus Master Plan and in Exhibit "A" is likely to generate an additional demand on the Town's potable water system of 124,602 gallons per day through the Year 2015. Without compensating improvements to the Town's water supply facilities, the reliable level of service currently provided by the Town will be jeopardized.
- 10.3 The BOT and Town agree that development proposed in the adopted FAU John D. MacArthur Campus Master Plan and in Exhibit "A" is likely to generate an additional demand on the LRD's sanitary sewer system of 158,825 gallons per day through the Year 2015. Without compensating improvements to the LRD's sanitary sewer facilities, the reliable level of service currently provided by the Town will be jeopardized.
- 10.4 The BOT and Town agree that development proposed in the adopted FAU John D. MacArthur Campus Master Plan and in Exhibit "A" should not degrade the operating conditions for solid waste facilities below the level of service standards adopted by the Town.

- 10.5 The BOT and Town agree that development proposed in the adopted FAU John D. MacArthur Campus Master Plan and in Exhibit “A” should not degrade the operating conditions for open space and recreational facilities below the level of service standards adopted by the Town.
- 10.6 The BOT and Town agree that development identified in the adopted FAU John D. MacArthur Campus Master Plan and in Exhibit "A" will contribute to existing or projected deficiencies at the intersection of Central Boulevard and Dakota Drive.

11.0 IMPROVEMENTS REQUIRED TO MAINTAIN LEVELS OF SERVICE

In order to meet the Town’s concurrency requirements, the construction of the following off-campus improvements shall be required.

- 11.1 Stormwater management:
The BOT agrees to continue to mitigate all stormwater concurrency on a project by project basis.
- 11.2 Potable water:
To construct improvements required by proposed development, the Town requires certain fees to be paid to recover its costs in maintaining established level of service standards for potable water. The Town's cost recovery system is based upon the measurable fair share portion of the water system's treatment plant and master transmission line system capacity for new consumers. The BOT and Town agree that the BOT's fair share of the cost of improvements necessary to maintain established level of service standards for potable water may be determined by converting its anticipated demand into equivalent residential connections as depicted in Exhibit “C” (Potable Water and Sanitary Sewer Connections Table) and then computing the fees due by multiplying by the applicable equivalent residential connection costs for treatment plant capacity charges and off-site transmission line costs.
- 11.3 Sanitary sewer:
To construct improvements required by proposed development, the LRD requires certain fees to be paid to recover its costs in maintaining established level of service standards for sanitary sewer. The District's cost recovery system is based upon the measurable fair share portion of the water system's treatment plant and master transmission line system capacity for new consumers. The BOT and LRD agree that the BOT's fair share of the cost of improvements necessary to maintain established level of service standards for sanitary sewer may be determined by converting its anticipated demand into equivalent connections as depicted in Exhibit “C ” (Potable Water and Sanitary Sewer Connections Table) and then computing the fees due by multiplying by the applicable equivalent connection costs for administrative, legal, engineering and inspection expenses, regional plant charges and regional transmission line costs.
- 11.3.1 The BOT agrees to design and construct improvements required to LRD’s Lift Station Number 246 (as described in the BOT’s OffSite System Analysis John D. MacArthur Campus July 2009 report), to address future projects’ sanitary sewer collection and transmission system. The cost and timing for these improvements will be addressed on a project by project basis to accommodate flow conditions.
- 11.4 Solid waste:
The BOT and Town agree that there is sufficient solid waste facility capacity to accommodate the impacts of development proposed in the adopted FAU John D. MacArthur Campus Master Plan and to meet the future needs of the BOT for the duration of this Agreement. The BOT and Town further agree that no off-campus solid waste improvements need be provided.
- 11.5 Parks and recreation:
The BOT and Town agree that there is sufficient open space and recreation facility capacity to

accommodate the impacts of development proposed in the adopted FAU John D. MacArthur Campus Master Plan and to meet the future needs of the BOT for the duration of this Agreement. The BOT and Town further agree that no off-campus open space and recreation improvements need be provided.

11.6 Transportation:

The BOT and Town agree that transportation improvements at the intersection of Central Boulevard and Dakota Drive are necessary to support the development included in Exhibit "A". The BOT and the Town agree that the BOT's fair share of the cost of transportation improvements necessary to maintain the established intersection level of service standard at the intersection of Central Boulevard and Dakota drive is 12.6 percent of the total cost of construction of \$400,000.

12.0 FINANCIAL ASSURANCES FOR PUBLIC FACILITIES

The following financial assurances are provided by the BOT to guarantee the BOT's fair share of the costs of off-campus improvements to public facilities and services necessary to support development identified in the FAU John D. MacArthur Campus Master Plan and Exhibit "A":

12.1 Stormwater management:

No stormwater management improvements need be assured as long as stormwater impacts continue to be mitigated pursuant to Section 9.1 above.

12.2 Potable water:

The BOT and Town agree that the BOT's responsibility for paying its fair share of the costs of improvements identified in Section 11.2 may be met by providing funding to support improvements to the Town's water production, treatment, storage, pumping and distribution facilities. The BOT's total fair share cost is \$1,366,188 for 356.01 equivalent residential connections (ERCs). The parties agree that on the Effective Date, due to the limited availability of funds at this time, the BOT shall pay the Town the amount of **\$838,110** ("Potable Water Partial Payment") from 2009-10 Public Education Capital Outlay (PECO) funds. The Potable Water Partial Payment shall apply towards capturing 218.4 ERCs for potable water, which may be applied towards any of the projects identified on Exhibit "C". If the BOT desires to capture more than 218.4 ERCs, up to the total amount of ERCs identified on Exhibit C", the BOT shall pay Town the applicable pro rata cost per ERC as set forth on Exhibit "C"; provided, however, if not paid for within 90 days of the Effective Date, the BOT shall be subject to additional reasonable costs associated with increases in rates, fees and charges applicable at the time of payment.

12.3 Sanitary sewer:

The BOT and Town agree that the BOT's responsibility for paying its fair share of the costs of improvements identified in Section 11.3 may be met by providing funding to support improvements to the LRD's wastewater treatment, storage, pumping and distribution facilities. The BOT's total fair share cost is \$1,323,056 for 637.31 equivalent connections (ECs). The parties agree that on the Effective Date, due to the limited availability of funds at this time, the BOT shall pay LRD the amount of **\$730,752** ("Sanitary Sewer Partial Payment") from 2009-10 Public Education Capital Outlay (PECO) funds. The Sanitary Sewer Partial Payment shall apply towards capturing 352 equivalent connections (ECs) for sanitary sewer, which may be applied towards any of the projects identified on Exhibit "C". If the BOT desires to capture more than 352 ECs, up to the total amount of ECs identified on Exhibit C", the BOT shall pay LRD the applicable pro rata cost per EC as set forth on Exhibit "C"; provided, however, if not paid for within 90 days of the Effective Date, the BOT shall be subject to additional reasonable costs associated with increases in rates, fees and charges applicable at the time of payment.

12.4 Solid waste:

The BOT and the Town agree that no off-campus solid waste improvements need be assured by the BOT.

12.5 Parks and recreation:

The BOT and the Town agree that no off-campus parks and recreation improvements need be assured by the BOT.

12.6 Transportation:

The BOT and Town agree that the BOT's responsibility for paying its fair share of the cost identified in Section 11.6 may be met by providing funding to support the necessary transportation improvements at the intersection of Central Boulevard and Dakota Drive. The BOT's total fair share cost of the transportation improvements is **\$50,400**. The parties agree that on the Effective Date the BOT shall pay the Town the amount of \$50,400 from the 2009-10 Public Education Capital Outlay (PECO) funds. The parties further agree that the funds shall be maintained in an escrow account by the Town, which will be established to fund transportation improvements at the intersection of Central Boulevard and Dakota Drive.

13.0 CONCURRENCY VESTING FOR DEVELOPMENT

13.1 The development being vested from concurrency for all areas of service other than potable water and sanitary sewer is identified in the FAU John D. MacArthur Campus Master Plan Updated September 10, 2008, adopted by the BOT on November 19, 2008, and as described hereto in Exhibit "A", and incorporated herein by this reference. The development being vested for potable water equivalent residential connections (ERCs) and sanitary sewer equivalent connections (ECs) is described in Exhibit "C" and captured under payments identified in sections 12.2 and 12.3. Any amendment or extension to this Agreement or subsequent campus development agreement shall recognize development identified in the adopted FAU John D. MacArthur Campus Master Plan and Exhibit "A" as vested from concurrency by this Agreement, with the established parameters for potable water and sanitary sewer, and that development which remains unbuilt shall remain vested from the Town's concurrency requirements.

13.2 The uses, maximum densities, intensities and building heights for development identified in Exhibit "A" shall be those established in the Future Land Use Element of the FAU John D. MacArthur Campus Master Plan, adopted on November 19, 2008.

13.3 The Town agrees to vest from its concurrency requirements the development identified in the Capital Improvements Element of the FAU John D. MacArthur Campus Master Plan, adopted on November 19, 2008, and Exhibit "A" to this Agreement, for the duration of this Agreement. The BOT shall comply with all the terms and conditions of this Agreement and provide financial assurances as set forth in Section 12.0 of this Agreement.

14.0 APPLICABLE LAWS

14.1 The state government law and policies regarding concurrency and concurrency implementation governing this Agreement shall be those laws and policies in effect at the time of approval of this Agreement.

14.2 If state or federal laws are enacted subsequent after execution of this Agreement, which are applicable to or preclude either party's compliance with the terms and conditions of this Agreement, this Agreement shall be modified or revoked or amended, as is necessary, to comply with the relevant state or federal laws.

15.0 AMENDMENT

15.1 Amendments of this Agreement shall be made in accordance with the provisions set forth in Subsection 1013.30 (19), Florida Statutes.

- 15.2 Amendment of this Agreement shall be made in accordance with the notification requirements set forth in Section 22.0 of this Agreement.
- 15.3 It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document approved and executed by all the parties hereto.

16.0 CONSISTENCY WITH ADOPTED COMPREHENSIVE PLANS

The Town finds that this Agreement and the proposed campus development provided for herein are consistent with the Town's adopted Comprehensive Plan.

17.0 ENFORCEMENT

In accordance with Subsection 1013.30 (20), Florida Statutes, any party to this Agreement or aggrieved or adversely affected person may file an action for injunctive relief in the circuit court where the Town is located to enforce the terms and conditions of this Agreement, or to challenge the compliance of the Agreement with Section 1013.30, Florida Statutes. This action shall be the sole and exclusive remedy of an adversely affected person other than a party to the agreement to enforce any rights or obligations arising from this Agreement.

18.0 DISPUTE RESOLUTION

- 18.1 In the event of a dispute arising from the implementation of this Agreement, the provisions of Subsection 1013.30 (17), Florida Statutes, shall govern the resolution of the dispute. Each party shall select one mediator and notify the other party in writing of the selection. Thereafter, within 15 days after their selection, the two mediators shall select a neutral third mediator to complete the mediation panel.
- 18.2 Each party shall be responsible for all costs and fees payable to the mediator selected by it and shall equally bear responsibility for the costs and fees payable to the third mediator for services rendered and costs expended in connection with resolving issues in dispute.
- 18.3 Within 10 days after the selection of the mediation panel, proceedings must be convened by the panel to resolve the issues in dispute. Within 60 days after the convening of the mediation panel, the panel shall issue a report containing a recommended resolution of the issues in dispute.
- 18.4 If either the BOT or Town rejects the recommended resolution of the issues in dispute, the matter shall be forwarded to the state land planning agency which, pursuant to Subsection 1013.30(16), Florida Statutes, has 60 days to hold informal hearings and, if necessary, identify remaining issues in dispute, prepare a record of the proceedings, and submit the matter to the Administration Commission for final action. The report to the Administration Commission shall list each issue in dispute, describe the nature and basis for each dispute, identify alternative resolutions of each dispute, and make recommendations. The Administration Commission shall then take action to resolve the issues in dispute. In resolving the matter, the Administration Commission may, pursuant to Subsection 1013.30(16), Florida Statutes, prescribe, by order, the contents of this Agreement.

19.0 MONITORING AND OVERSIGHT

- 19.1 The Town may, upon request, review all relevant information concerning development on the FAU John D. MacArthur Campus to verify that the terms of this Agreement are satisfied. The Town may review said activity to determine if there has been demonstrated good faith compliance with the terms of this Agreement.
- 19.2 The BOT may, upon request, review all relevant information concerning development activity by the Town to verify that improvements identified in Section 11.6 of this Agreement, for which State

University System Concurrency Trust Fund moneys are used to address impacts of the BOT development, have been implemented consistent with the terms and conditions of this Agreement. The BOT may review said activity to determine if there has been demonstrated good faith compliance with the terms of this Agreement.

19.3 If either party finds that there has been a failure to comply with the terms of this Agreement, the aggrieved party shall serve notice on the other that such failure to comply has occurred in accordance with the notification requirements set forth in Section 22.0 of this Agreement.

19.4 Disputes that arise in the implementation of this Agreement shall be resolved in accordance with the provisions of Section 18.0 above.

20.0 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns and personal representatives.

21.0 FORWARDING OF THIS AGREEMENT

A copy of this Agreement shall be forwarded to the state land planning agency by the BOT within 14 days after execution.

22.0 NOTICES

22.1 All notices, demands, requests to replies provided for or permitted by this Agreement shall be in writing and may be delivered by any of the following methods:

By personal service or delivery;
By registered or certified mail;
By deposit with an overnight express delivery service.

22.2 Notices by personal service or delivery shall be deemed effective at the time of personal delivery. Notices by registered or certified mail shall be deemed effective three business days after deposit with the United States Postal Service. Notices by overnight express delivery service shall be deemed effective one business day after deposit with the express delivery service.

For the purpose of notice, the address of the BOT shall be:

President
Office of the President
Florida Atlantic University
Administration Building, Room #339
777 Glades Road
Boca Raton, Florida 33431

With a copy to:

Mr. Thomas Donaudy, University Architect & Vice President for Facilities
Florida Atlantic University, CO#69-Room 101
777 Glades Road
Boca Raton, Florida 33431

The address of the Town shall be:

Town Manager

Town of Jupiter
210 Military Trail
Jupiter, Florida 33458

With a copy to:

Mr. John Sickler, Director
Community Development Department
Town of Jupiter
210 Military Trail
Jupiter, Florida 33458

23.0 EXHIBITS AND SCHEDULES

The Exhibits and Schedules to this Agreement consist of the following, all of which are incorporated into and form a part of this Agreement:

Exhibit "A" --- Updated Campus Master Plan – Existing and New Development Authorized By The Agreement

Exhibit "B" --- Geographic Area Covered By This Agreement

Exhibit "C"--- Potable Water and Sanitary Sewer Connections Table for New Development Authorized by This Agreement

Exhibit "D" --- Developer Agreement with Loxahatchee River Environmental Control District

IN WITNESS THEREOF, the parties have set their hands and seals on the day and year indicated.

Signed, sealed and delivered in the presence of:

FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

Date: _____

STATE OF FLORIDA
COUNTY OF LEON

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, 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 thereof 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 _____,20____.

Notary Public

(Notarial Seal)

My Commission expires:

APPROVED by the Town Council on _____, 20____.

ATTEST:

TOWN COUNCIL OF THE
TOWN OF JUPITER, FLORIDA

BY: _____

Karen J. Golonka, Mayor

(Name / Title)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Thomas J. Baird, Town Attorney

EXHIBIT "A" Updated Campus Master Plan Existing and New Development Authorized By This Agreement

EXHIBIT A

**UPDATE TO THE
JOHN D. MACARTHUR
CAMPUS MASTER PLAN**

ADOPTED: SEPTEMBER 10, 2008

LEGEND:

EXISTING FACILITIES

FUTURE DEVELOPMENT

LOCATION NUMBER	BUILDING USE - SYMBOLOGY CATEGORY	PROGRAM SIZE (SQUARE FEET)
1	TWO STORY ACADEMIC BUILDING	30,000 SF
2	TWO STORY ACADEMIC BUILDING	40,000 SF
3	THREE STORY STUDENT SERVICES	50,000 SF
4	TWO STORY ACADEMIC BUILDING	24,000 SF
5	TWO STORY ACADEMIC BUILDING	40,000 SF
6	TWO STORY ADMINISTRATION	40,000 SF
7	TWO STORY ACADEMIC BUILDING EXPANSION	10,000 SF
8	TWO STORY ACADEMIC BUILDING EXPANSION	8,000 SF
9	JOHN D. MACARTHUR HALL - 250 HEUS	14,000 SF
10	PARKING GARAGE 1 - 650 CARS	N/A
11	PARKING GARAGE 2 - 1,500 CARS	N/A
FAU BUILD OUT - SUBTOTAL		344,000 SF
12	RESEARCH BUILDING 1	100,000 SF
13	RESEARCH BUILDING 2	100,000 SF
TOTAL		544,000 SF

SOURCE: PCAL CONCEPT

2009 CAMPUS DEVELOPMENT AGREEMENT

**FLORIDA ATLANTIC
UNIVERSITY**

MACARTHUR CAMPUS

JUPITER, FLORIDA

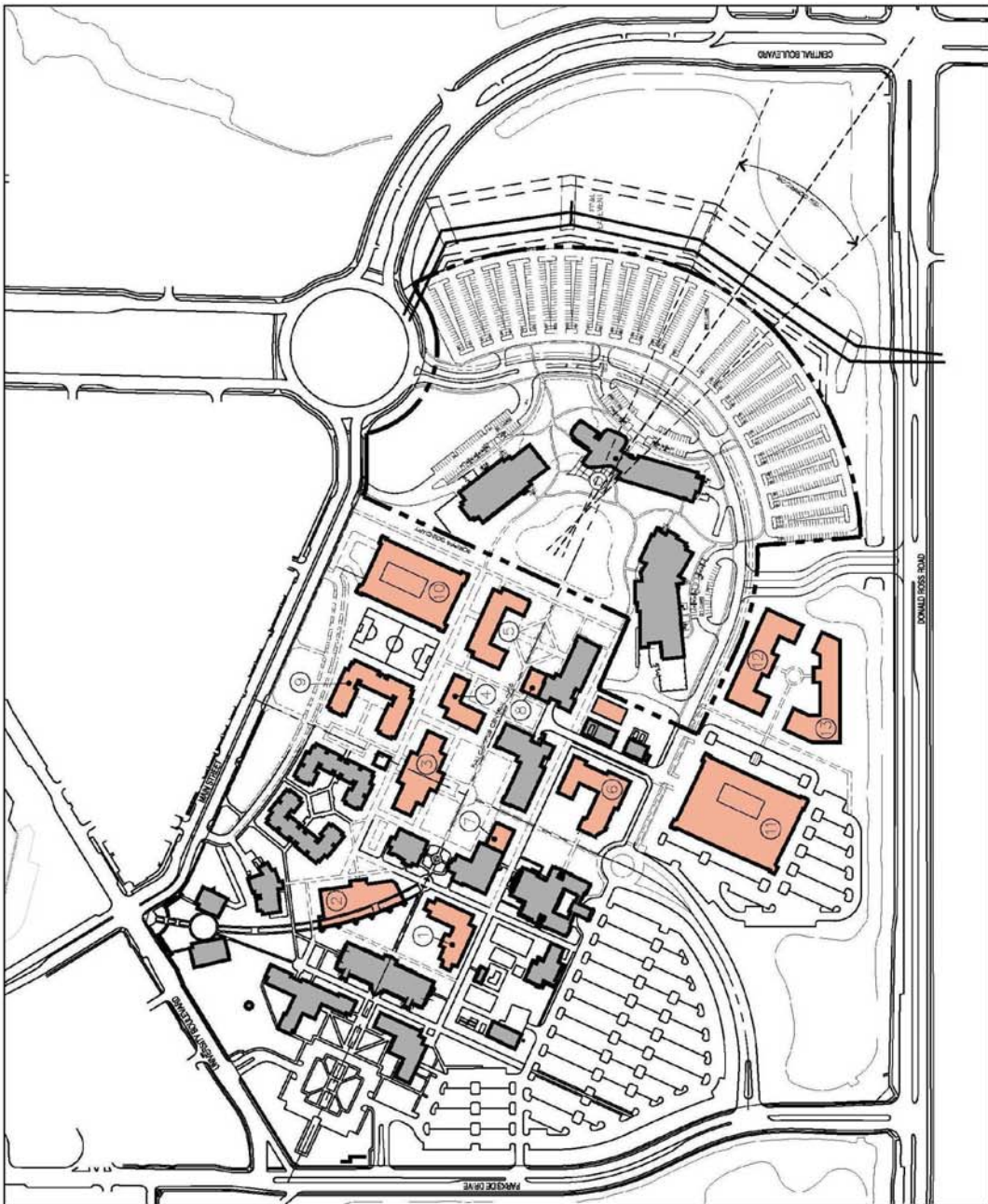


EXHIBIT "B"
Geographic Area Covered by this Master Plan

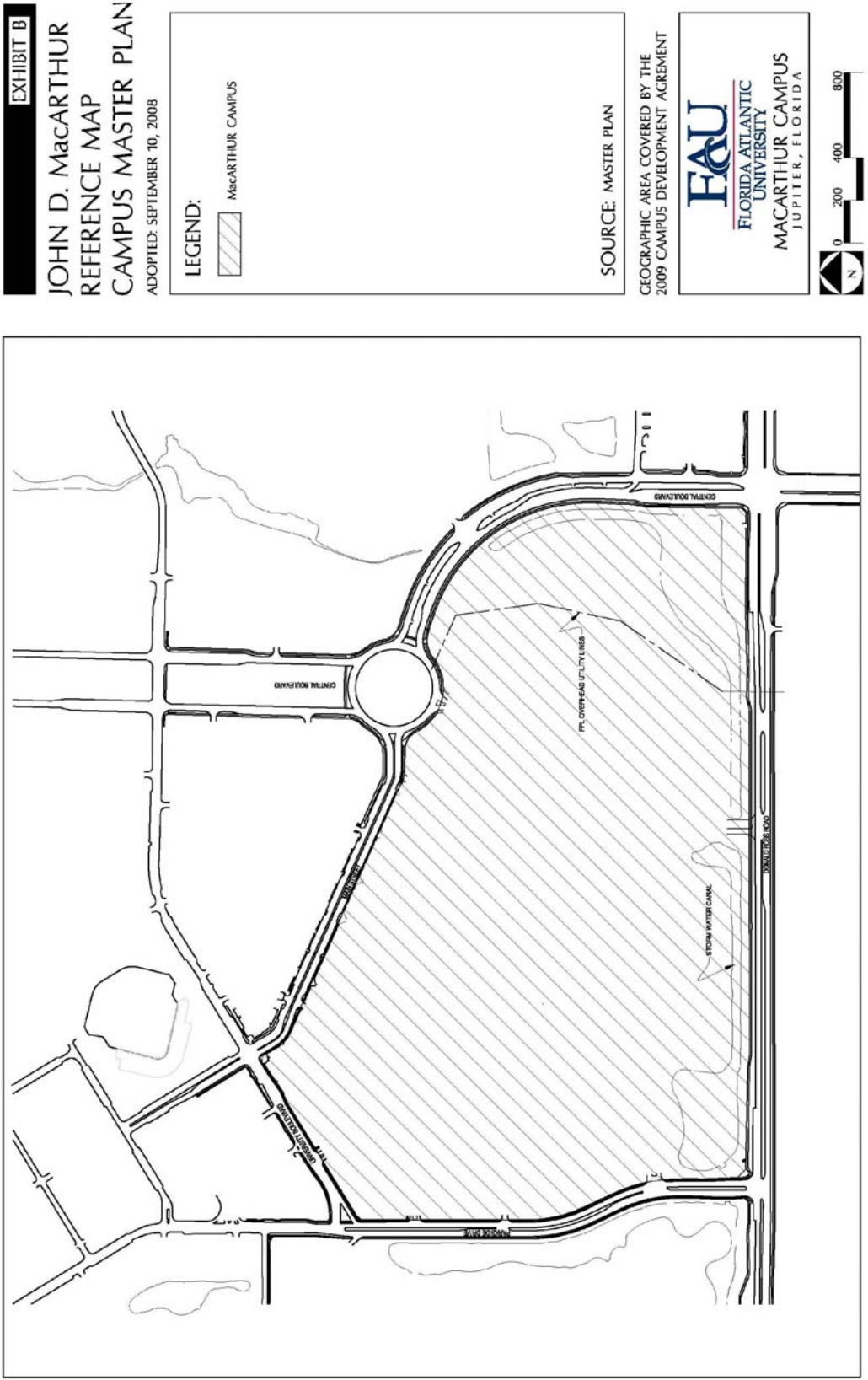


EXHIBIT "C"
Potable Water and Sanitary Sewer Connections Table for
New Development Authorized by This Agreement

Space Category	Gross Sq. Ft	Potable Water		Sanitary Sewer	
		GPY/GSF	ERC	GPY/GSF	EC
Two Story Academic Bldg.	30,000	77.50	18.20	124.91	29.33
Two Story Academic Bldg.	40,000	77.50	24.27	124.91	39.11
Three Story Student Services	62,000	77.50	37.61	124.91	60.62
Two Story Academic Bldg.	24,000	77.50	14.56	124.91	23.47
Two Story Academic Bldg.	40,000	77.50	24.27	124.91	39.11
Two Story Administration	48,000	77.50	29.12	124.91	46.93
Two Story Academic Bldg.- Expansion	8,000	77.50	4.85	124.91	7.82
Two Story Academic Bldg.- Expansion	8,000	77.50	4.85	124.91	7.82
Four Story Resident Hall -250 Beds	100,000	77.50	60.67	124.91	97.78
Parking Garage 1 – 650 Cars	N/A		N/A		N/A
Parking Garage II – 1,350 Cars	N/W		N/A		N/A
Research Bldg.	100,000	87.90	68.81	182.24	142.655
Research Bldg. II	100,000	87.90	68.81	182.24	142.655
Total	560,000		356.01		637.31

Concurrency Payment for 2009 CDA	2009 Cost per Unit	No. of Units	Total Cost
Town of Jupiter – Potable Water	\$ 3,837.50	218.40 ERCs	\$ 838,110
Loxahatchee River Control District-Sanitary Sewer	\$ 2,076	352.00 ECs	\$ 730,752

EXHIBIT "D"
Developer Agreement with
Loxahatchee River Environmental Control District (LRD)

LRECD – 102(mod) dated 5-2-06
Prepared By & Return To:
Clinton R. Yerkes
Loxahatchee River District
2500 Jupiter Park Drive
Jupiter, Florida 33458

DEVELOPER AGREEMENT
P#_____

THIS AGREEMENT MADE AND ENTERED INTO this _____ day of _____, _____, by and between LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT, hereinafter referred to as the "District" and FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES, hereinafter referred to as "Developer", with regard to the property described in Exhibit "A", attached hereto and made a part hereof, (the "Property"). References herein to the "Rule" or "Rules" shall mean the Rules of the Loxahatchee River Environmental Control District as same may be amended from time to time hereafter, which are hereby incorporated by reference.

IN CONSIDERATION of the covenants and agreements herein set forth, the parties agree as follows:

1. **PROVISION OF RESERVE AVAILABILITY**

The District shall provide Reserve Service Availability, as same is defined in Rule 31-10, in the Regional Wastewater System of the District to the extent of 637.31 equivalent connections (EC), as same are defined in Rule 31-10, for the Property described as:

Space Category	Gross Sq. Ft	Sanitary Sewer	
		GPY/GSF	EC
Two Story Academic Bldg.	30,000	124.91	29.33
Two Story Academic Bldg.	40,000	124.91	39.11
Three Story Student Services	62,000	124.91	60.62
Two Story Academic Bldg.	24,000	124.91	23.47
Two Story Academic Bldg.	40,000	124.91	39.11
Two Story Administration	48,000	124.91	46.93
Two Story Academic Bldg.- Expansion	8,000	124.91	7.82
Two Story Academic Bldg.- Expansion	8,000	124.91	7.82
Four Story Resident Hall -250 Beds	100,000	124.91	97.78
Parking Garage 1 – 650 Cars	N/A		N/A
Parking Garage II – 1,350 Cars	N/W		N/A

Research Bldg.	100,000	182.24	142.655
Research Bldg. II	100,000	182.24	142.655
Total	560,000		637.31

	2009 Cost per Unit	No. of Units	2009 Total Cost
Loxahatchee River Control District- Sanitary Sewer		637.31 ECs	\$1,323,055.56
2009 Payment	\$ 2,076	352.0 EC's	\$ 730,752.00

2. TERMS OF ACCEPTANCE

Upon signing this Agreement, Developer shall pay to the District the sum of SEVEN HUNDRED THIRTY THOUSAND SEVEN HUNDRED FIFTY TWO and 00/100 ths (\$ 730,752.00) Dollars. In accordance with the Campus Development Agreement of 2009 ("CDA"), this sum represents payment for 352.0 EC's, and the following charges:

- (a) The Administrative, Legal, Engineering and Inspection expenses of \$103.00 per equivalent connection. \$ 36,256.00
- (b) Plant Connection Charges Per Rule 31.10.005(2) of \$1,482.00 per equivalent connection \$ 521,664.00
- (c) The Regional Transmission System Line Charges per Rule 31.10.005(2) of \$491.00 per equivalent connection. \$ 172,832.00

In accordance with the term 1(h) of the July, 2004 Memorandum of Understanding between FAU and the District all building plans will be submitted to the District for review and comment. The initial 352 ECs paid for under this Agreement may be applied towards any of the projects identified in Paragraph 1 of this Agreement. After the initial 352 ECs are applied toward the projects identified in Paragraph 1, each time thereafter that FAU provides a project to the District for approval, approval shall be conditioned upon FAU paying the District for the specific number of ECs required to service the specific project. If FAU desires to purchase more than 352 ECs up to the total reserved amount of 637.31 ECs, FAU shall pay the District the applicable pro rata cost per EC as set forth in Paragraph 1 above, provided however, if not paid for within 90 days of the Effective Date of the CDA, FAU shall be subject to additional reasonable costs associated with increases in rates, fees and charges applicable at the time of payment.

3. WASTE QUANTITY AND QUALITY

It is agreed that the waste stream flow shall be consistent with that indicated under Paragraph 1 of this agreement, and should flows be found consistently greater than the projected flow quantity, the District may require additional fees.

The Developer shall or cause a party approved by the District, to obtain, maintain and provide facilities and reporting as may be required by the District, State, and Federal requirements for the discharge of industrial waste to the wastewater treatment facility. Waste characteristics shall be addressed consistent with District criteria as set forth in the District rules, and to meet pretreatment requirements of the applicable State and Federal regulatory agencies.

4. COMMENCEMENT OF QUARTERLY SERVICE CHARGES

Quarterly Service Charges shall commence upon commencement of use of the sewer system by each building as identified in Paragraph 2, and in no event later than the date of issuance of the Certificate of Occupancy for any of the buildings covered by this agreement.

5. DEFAULT

Upon failure of the Developer to pay any monies due under this Agreement for any period greater than ninety (90) days from the date they become due, this Agreement shall be deemed in default, and shall become null and void; and in that event any Quarterly Service Availability Standby Charges or Regional Transmission System Line Charges paid or prepaid shall be retained by the District, and the provision of reserve service availability to the extent of the number of equivalent connections set forth in Paragraph 1 hereof for the Property shall terminate.

6. TRANSFERABILITY OF RESERVE SERVICE AVAILABILITY

Any assignment of any part or all of Developer's interest in this Agreement shall only be in the form LRECD-106 dated 1-1-98 incorporated herein by referenced. The assignment of Reserve Service Availability for an undeveloped lot, which is to be sold shall be in the form of the prepayment of the estimated Plant Connection Charge at or prior to the time of sale of the lot. The Reserve Service Availability under this Agreement may not be transferred from the Property to any other property.

7. ALLOCATION OF SERVICE AVAILABILITY

In the event that, from time to time, in the opinion of the District, Reserve Service Availability shall be insufficient to meet the expected demand, therefore, then the District shall proportionately allocate such Reserve Service Availability.

8. ATTORNEY'S FEES

In the event litigation is necessary to enforce the provisions of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney's fees and costs, subject to Section 768.28, Florida Statutes.

9. RECORDATION

A copy of this Agreement may be filed in the records of the county where the Property is located without the plans and specifications referred to below.

10. ADDITIONAL FACILITIES

Any new wastewater facilities constructed by the Developer and connected to the District's Regional Wastewater System shall be constructed at the Developer's expense in accordance with final plans and specifications approved by the District, a copy of which shall be kept on file at the office of the District. The aforesaid final construction plans and specifications shall be prepared and carried out in accordance with District Rules, and published procedures as contained in the District Manual of "Construction Standards and Technical Specifications", form LRECD-123 dated March, 1998 incorporated herein by reference. In addition, the plans shall contain the type and placement of individual water meters capable of measuring water flow to each individual structure.

Upon completion of the facilities, they shall be either: **A.** Conveyed to the District for operation and maintenance by provision of the following items in a form acceptable to the District: *(1.) Bill of Sale (2.) Grant of Easement (3.) Maintenance Bond or Letter of Credit (4.) As-Built Drawings (5.) Certification by Project Engineer (6.) Plat of the Project* or **B.** Ownership and operation & maintenance responsibility shall remain with the Developer and Developer shall submit the following items in a form acceptable to the District: as-built drawings and Certification by the project engineer.

11. DEDICATION OF LAND

Developer agrees that, upon demand, it shall grant and convey to the District, without additional consideration, all required easements and rights-of-way in the Property as the District may, from time to time hereafter request, based upon the criteria of utilization for utility purposes related to wastewater, and I.Q. Water.

12. Intentionally deleted.

IN WITNESS WHEREOF, the Developer has hereunto set his hand and seal on the date of

Signed, sealed and delivered
in the presence of :

DEVELOPER: FLORIDA ATLANTIC
UNIVERSITY BOARD OF TRUSTEES, a public
body corporate of the State of Florida

WITNESS SIGNATURE

Print Name:

By: _____

Print Name:

Title:

WITNESS SIGNATURE

Print Name:

FOR PURPOSES OF THIS AGREEMENT
THE OFFICIAL ADDRESS OF THE
DEVELOPER SHALL BE AS FOLLOWS:

PHONE: () _____

STATE OF _____
COUNTY OF _____

I hereby Certify that on this date of _____, personally appeared
_____ known to me to be the person(s) described
in and who executed the same, that I relied upon the following form(s) of identification of the
above named person(s) _____.

Notary Seal

Notary Signature

Witnesses As To The District:

LOXAHATCHEE RIVER ENVIRONMENTAL
CONTROL DISTRICT

Print Name:

D. Albrey Arrington, Ph.D.
Executive Director

Print Name:

FOR PURPOSES OF THIS AGREEMENT
THE OFFICIAL ADDRESS OF THE
DISTRICT SHALL BE AS FOLLOWS:

**LOXAHATCHEE RIVER ENVIRONMENTAL
CONTROL DISTRICT
2500 JUPITER PARK DRIVE
JUPITER, FLORIDA 33458-8964**

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby Certify that on this date of _____, personally appeared D. Albrey Arrington, Ph.D., Executive Director, known to me to be the person described in and who executed the same, that I relied upon the following form(s) of identification of the above named person _____.

Notary Seal

Notary Signature

Loxahatchee Riv Dist FAU Developer Agr Oct 15v3 (CLS Edit) (2).doc



Florida Atlantic University
John D. MacArthur Campus – Campus Development Agreement

Strategic Planning Committee

Tom Donaudy, University Architect & Vice President for Facilities
Azita Dashtaki, Assistant Vice President for Facilities

October 21, 2009

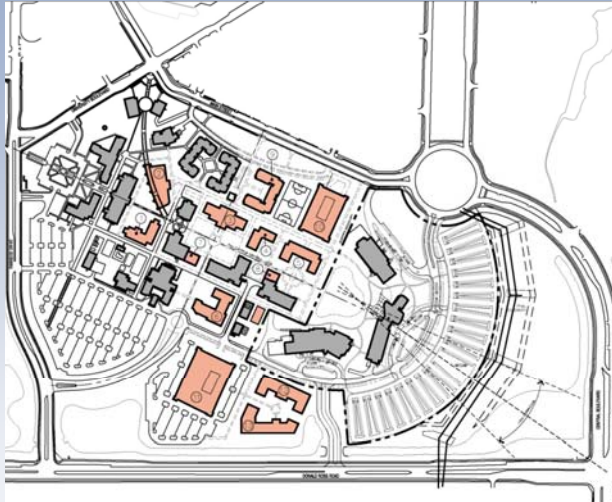
FLORIDA ATLANTIC UNIVERSITY

Update to the Jupiter Campus Master Plan – Timeline

1. Initial Master Plan Adopted – July 10, 1998
2. Initial Campus Development Agreement executed on – September 20, 2000
3. Updated Master Plan completed April 30, 2007
4. First Public Hearing – August 14, 2007
5. Documents transmitted for Agency Review
6. Second Public Hearing – September 10, 2008
7. Updated Master Plan Adopted on November 19, 2008

John D. MacArthur Campus Master Plan Update

FLORIDA ATLANTIC UNIVERSITY



No.	Project Title	Proposed Gross Square Footage
1	Two Story Academic Building	30,000 GSF
2	Two Story Academic Building	40,000 GSF
3	Three Story Student Services	62,000 GSF
4	Two Story Academic Building	24,000 GSF
5	Two Story Academic Building	40,000 GSF
6	Two Story Administration Building	48,000 GSF
7	Two Story Academic Bldg. Expansion	8,000 GSF
8	Two Story Academic Bldg. Expansion	8,000 GSF
9	Four Story Residence Hall – 250 Beds	100,000 GSF
10	Parking Garage I – 650 Cars	N/A
11	Parking Garage II – 1,350 Cars	N/A
12	Research Building 1	100,000 GSF
13	Research Building 2	100,000 GSF
Total Proposed GSF		560,000 GSF

John D. MacArthur Campus Master Plan Update

FLORIDA ATLANTIC UNIVERSITY

	Current	Authorized Under CDA
Full Time Equivalent (FTE) (FTE to HC ratio - 1.3 for Honors & 2.3 for others)	726 FTE	1,220 FTE
Gross Square Footage – (w/o housing)	277,493 GSF*	637,493 GSF
Residential Units – Number . of Beds	288 beds	538 beds**
Parking Spaces	1,154	3,390

* Does not include Scripps Permanent Facilities

** Additional 250 beds estimated at 100,000 GSF included in total GSF number above.

John D. MacArthur Campus Master Plan Update

Campus Development Agreement

1. Fair Share Payment to Mitigate Impact

- Potable Water – TOJ \$838,305
- Sanitary Sewer - ENCON \$730,752
- Transportation TBD

2. Development Parameters

- Additional 360,000 GSF of Development

3. Total Payment of \$1,568,862 from 2009-10 PECO Funds