



Item: AFSP: A-1

AUDIT AND FINANCE COMMITTEE/STRATEGIC PLANNING COMMITTEE
JOINT MEETING
Wednesday, July 22, 2009

SUBJECT: Pre-Development Agreement with Crocker Partners, LLC

PROPOSED COMMITTEE ACTION

Recommend approval of a Pre-Development Agreement with Crocker Partners, LLC.

BACKGROUND INFORMATION

In April 2008 the University published an Invitation to Negotiate ("ITN") for the development rights of 2400 beds of University housing on the Boca Raton campus. The beds are projected in the campus master plan for the Boca campus to come online in the next seven years, and will form an integral part of Innovation Village. The beds will be marketed exclusively to upper-division undergraduate, graduate, and professional students – a market that is currently underserved. The University issued the ITN to determine whether private developers would be willing to assume responsibility for the development and construction of the units, and whether additional revenues could be derived from a development deal that could support other facets of Innovation Village.

Four development teams submitted responses to the ITN. After months of meetings with each responding team, the ITN selection committee issued a unanimous recommendation that the University award the development rights to Crocker Partners, LLC. Following this determination, the administration has been working with Crocker Partners and its development team to assess the feasibility of the proposal.

The negotiations have now advanced to the point where it is appropriate for the parties to enter into a Pre-Development Agreement. This agreement will authorize finalization of the building designs, site plans, operating agreement, and financing plan. The building design is currently envisioned to be apartment units with a mix of four-bedroom/two-bathroom and two-bedroom/two-bathroom units. The site will be two locations on the north side of the campus, in the heart of the Innovation Village area. The operating agreement will authorize the developer to operate and maintain both the new facilities and the University's existing housing inventory; the University will continue to provide all residence life functions for all units. The financing plan contemplates the creation of a not-for-profit corporation that will be certified by the University as a Direct Support Organization ("DSO"), which

will operate exclusively for the benefit of the University. University DSO's are eligible to issue tax-exempt bonds in accordance with the Florida Board of Governors' Debt Management Guidelines. The University and the development team anticipate that the DSO would issue either tax-exempt or taxable "Build America" bonds, which would be backed by the revenue stream from the housing development. **Any debt issued by the DSO would be non-recourse to the University.** The developers would also infuse the project with a to-be-determined amount of capital investment.

All components of the final development deal will be brought to the Board for final approval in the Fall. The Pre-Development Agreement only obligates the University to continue working with the development team to finalize the foregoing elements, and to reimburse the team for certain design and development costs going forward, provided the University approves such costs in advance.

IMPLEMENTATION PLAN/DATE

Immediately upon approval by the Board.

FISCAL IMPLICATIONS

The University will incur certain design and pre-development costs (i.e., fees for architectural, engineering, surveying, and other professional services). The bulk of development costs, however, will be borne by the developer and reimbursed through the bond issuance.

Supporting Documentation: Pre-Development Agreement with Crocker Partners, LLC

Presented by: David L. Kian, Sr. Vice President and General Counsel

Phone: 561-297-3007

PRELIMINARY DEVELOPMENT AGREEMENT

This Preliminary Development Agreement (the "Agreement") is intended to set forth the understanding and agreement by and between the Florida Atlantic University Board of Trustees ("FAU" or the "University") and Crocker Partners LLC and its Development Team ("Developer" or "Development Team"), or its approved assigns (collectively "the Parties"), relative to the development, design, construction and operation of new student housing facilities to be developed as part of the Innovation Village Project (the "Project"), on the FAU campus in Boca Raton, Florida. It is contemplated that the Project will be developed in a manner generally consistent with (a) the response of the Development Team to the Invitation to Negotiate [FAU ITN # 08E-529] issued by FAU on April 18, 2008, which formed the basis for University selection of the Development Team to negotiate mutually acceptable agreements for the development and operation of the Project, (b) the proposal summary ("Proposal Summary") attached hereto as Exhibit "A" and incorporated herein by reference, and (c) the Development Cost Summary bearing the date June 5, 2009 (attached hereto as Exhibit "B" and incorporated herein by reference). These documents collectively highlight the key terms, conditions and plans for the Project as they are known or envisioned by the Development Team and FAU as of the date of the Agreement. The Parties anticipate the terms of this Agreement may be expanded and made more specific as the Project development plans progress and as key assumptions are vetted. The parties further anticipate that the terms of their relationship will be finalized and incorporated into more comprehensive development and management agreements, which documents shall replace this agreement upon approval by each party in its sole and absolute discretion. The approval of this Agreement by the University's Board of Trustees, and its execution by appropriate, authorized officials of the University, evidences the engagement of the Development Team by the University to pursue the development described herein in accordance with the terms hereof.

Recitals

Whereas, the University is interested in the well-being of its students, and believes there is both the need and demand for additional student housing on the University's Boca Raton campus. It is believed that new housing will play a valuable role in assisting with and facilitating the University's recruitment and retention of the best and brightest students, and make the college experience of these students more enjoyable and rewarding. The University believes the best way to facilitate the development of the new housing is to engage a qualified private development team, experienced in the creative financing, development and management of quality student housing, to work with the University to develop and implement plans for the design, financing, construction and operation of the new student residential community(ies), comprising as many as 2,400 new beds. The Parties believe the new housing may be managed by the Development Team together with the University's existing housing to generate ground lease revenue which may be used by FAU to develop other amenities and facilities within the Innovation Village Project; and

Whereas, the Development Team includes members experienced in the development and management of quality student housing, parking and related amenities, who desire to work with the University to develop and operate high-quality student residential communities and related facilities for the benefit of FAU and its students. The Development Team has evaluated this development opportunity and the housing need on which it is predicated, and believes it is ideally qualified and suited to work with the University to make the Project a reality; and

Whereas, the Parties wish to formally establish a relationship through the engagement of the Development Team by the University to perform the development services described herein (in accordance with and subject to the terms and conditions of this Agreement and the attached Exhibits), and (b) establish general design, construction, financial, budgetary and schedule parameters that will serve as a guide for the development of the Project.

Agreement

Now, therefore, in consideration of the mutual covenants and agreements herein set forth, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do pledge and agree to work together in an exclusive and co-operative manner to undertake and pursue the successful development of the Project, as described herein.

1. Developer-led, Design-Build Approach; Responsibilities and Roles of the Parties. In furtherance of the goals and objectives of the ITN, the University has elected to engage the Development Team utilizing a “developer-led, design-build” approach to the development of the Project. Through this methodology, the Developer will work in a highly collaborative manner with the University, employing and leading its Team of architectural and engineering consultants and specialists, contractors, financial advisors and underwriters, and property managers, through the planning, programming, design, development, financing, construction and operational phases of the development process.
 - A. Members of the Development Team and their Responsibilities. The Development Team will be fully responsible for the selection, supervision, and ultimately, for the contractual engagement of the architect, engineers, general contractor, property manager, financial advisor/underwriter, and other professional consultants involved in the development and operation of the Project. The Development Team members include Crocker Development, Balfour Beatty Capital, Capstone Development (co-developers), PGAL (architect of record), Balfour Beatty Construction (general contractor), RBC Capital Markets (underwriter), and Capstone On-campus Management (property manager). The University hereby approves these members of the Development Team, and acknowledges that members may be added to or removed from this Team if it is determined to be in the best interest of the Parties and the Project, but only with the written approval of FAU. The parties expressly contemplate the Developer’s assumption of certain existing University contracts related to the Project. It is contemplated that the contractual format to be employed by and between the Developer and the design and construction Team members will be modified AIA contracts. The form of all contracts shall be subject to the approval of the University.
2. Single Point-of-Contact; Designated Representatives of Each Party. The Parties agree that in order to facilitate an efficient working relationship throughout the Project planning, design and construction periods, the Developer will be the *single point-of-contact* and responsibility to the University for the development of the Project, but will actively involve and make available other members of the Development Team to participate in regularly scheduled planning and progress meetings with University officials (“University-Development Team” or “UDT Meetings”), to be held every two to three weeks through the design and construction phases of the Project. The Development Team will present ideas, concepts, and ultimately plans, specifications, budget and other proposals to the University and its designated project team (“University Project Team”), in an effort to provide updates on

progress and to solicit input, feedback, and when appropriate, decisions and/or approvals on material matters pertaining to the development and delivery of the Project.

- A. For ease and clarity of communication, and accountability, David Kian, FAU Senior Vice President and General Counsel, will serve as the designated representative and "point person" for the University, and Walker May will serve as the designated representative and "point person" for the Development Team, as the "Development Manager" for day-to-day co-ordination of the Development Team and communication/interaction with the University Team. Lou DeRogatis of Balfour Capital, and Jeff Jones of Capstone Development, will serve as the Project Executives for the Development Team, with overall responsibility for the Project and for the relationship with FAU. Certainly others will be actively involved in the process, but all official communication about material issues related to the development of the Project must flow through David Kian and Walker May, with each of these designated representatives responsible for the further dissemination of information to other members of their respective teams.
 - B. After the approval and execution of this Agreement, and on timing to be determined in consultation with the University, the Development Team will enter into contractual agreements with its Project design consultants to oversee and schedule the completion of the design phase of the Project, and to secure the necessary governmental approvals and permits for the Project. Likewise, the Development Team will contractually engage and work with the general contractor to provide pre-construction planning and estimating services in preparation for the execution of an acceptable construction contract. Upon the completion, final estimating, and University's approval of the plans and specifications (such approval not to be unreasonably withheld), the Development Team will submit a Final Development Budget, Operating Proforma, and Development Agreement to the University, for input, review and approval. Thereafter, the Development Team, in conjunction with the University, will work with the underwriter to arrange for and close the financing for 100% of the Project costs including subordinate financing to be provided by BBC or other members of the Development Team, oversee and administer all aspects of the construction of the Project, and facilitate the transition to the leasing and operational phase, all within the schedule for completion and occupancy of the Project in August of 2011.
3. Contemplated Project Scope and Phasing. It is contemplated that the Project will involve the development of an initial phase ("Phase I") of a new apartment-style housing community targeted to upper-division undergraduate and graduate students, comprising roughly 318 units and 1,226 beds of housing with common areas and amenities, and no less than 840 surface parking spaces, on one of two parcels of University-owned land designated for new housing and parking for the Innovation Village Project on the main FAU campus in Boca Raton. In accordance with the ITN, it is the understanding and agreement of the Parties that at some point in the future, when FAU reasonably determines that demand warrants, members of the Development Team will work with FAU on the development of a second phase ("Phase II") of roughly 1,200 beds of housing and related facilities targeted to upper-division undergraduate and graduate students on the "other" site within the Innovation Village Precinct not chosen for Phase I. It is contemplated that the identified Sites will be made available for the Project through the utilization of a Ground Lease ("GL") from the University to a to-be-formed entity, which may be a direct support organization of the University. The target date for commencement of the development and design of Phase I of

the Project is July, 2009. Construction of Phase I will need to commence between November 2009 and February, 2010. The target date for Substantial Completion of Phase I is on or before August 1, 2011.

4. Anticipated Ownership and Financing Structure. The Parties agree to cooperate in determining the most appropriate, advantageous and viable ownership and financing structure for Phase I of the Project. The Parties' initial working concept contemplates that ownership of the Project be vested in a to-be-created Direct Support Organization of the University ("DSO") which will lease the selected Site, serve as the borrower for the Project financing, and perhaps as the issuer of tax-exempt bonds that may be used for the construction and/or permanent financing of the Project.
 - A. Under this structure, it is contemplated that the DSO will contract with The Development Team to develop and then manage the Project, and arrange the financing thereof, subject to the consent of the University. It is anticipated that the DSO will serve as the borrower for the Project financing, the proceeds of which are anticipated to be generated through the sale of senior and subordinate tax-exempt bonds and/or taxable Build America Bonds. The DSO will authorize the underwriter to offer senior bonds in an amount sufficient to fund roughly 95 to 97% of Project development and financing costs. The DSO will further authorize the private placement of subordinate bonds with those members of the Development Team which are prepared to provide roughly \$3 to \$5 Million in subordinate financing, providing expertise, services, and taking the responsibility and risk of development of the Project. This subordinate financing will be in an amount consistent with the Preliminary and Final Proformas, sufficient to fund the remainder of the Project development and financing costs, and to compensate the Development Team for its investment and risk.
 - B. The Development Budget will include a Ground Lease Payment ("GL Payment") to be paid from bond proceeds at the closing of the financing transaction ("Closing"), in an amount consistent with the land value of the Sites, which GL Payment is expected to be utilized by the University to help fund the development of other facilities, infrastructure or amenities within the Innovation Village Project. This initial GL Payment is anticipated to be in the range of \$12 Million, with the Parties agreeing that the \$12 Million amount is a goal. Additional Ground Lease payments may be made to the University on an annual basis from the Net Operating Proceeds of the Project.
 - C. In order to secure the senior financing for the Project, to take advantage of operational efficiencies, and to maintain student housing rental rates at FAU in the most affordable range possible, it is contemplated by the Parties that the operations of the University's existing on-campus housing may be combined with the operations of Phase I of the Project. This mechanism will make it more likely that the senior financing for the Project can be secured on the most advantageous terms possible, and may allow, if necessary to secure such terms, for an agreed portion of the Net Operating Surplus generated from the operation of the existing campus housing, as accumulated in the University's Housing Enterprise Fund ("HEF"), to be considered as an alternative, or back-up source of revenue to support the financing of the Project. If this mechanism is to be used, the HEF will master lease the Project from the DSO (or possibly vice-versa), for the term of the financing. Master lease payments related thereto will be equal to the annual debt service on the senior and subordinate bonds plus the annual operating expenses of the Project. Only an agreed portion of the Net Operating Surplus from the existing housing,

after and subordinate to the payment of operating expenses and debt service and the outstanding bonds financing the existing housing, can be used to support the Project financing.

5. Flow of Economic Benefits. The goal and objective of the Parties is to structure the ownership, financing and operation of the Project in a way that will provide for the collection of rental income sufficient to allow the payment of the following Project expenses, in the following order of priority: Operating Expenses, including management fees and reserves for long-term building and furniture repairs and replacement; Senior Debt Service; and Subordinate Debt Service. It is the goal and objective of the Parties that the remaining funds, the Net Operating Surplus derived annually from the operation of the Project, will be received by the DSO to be used in its discretion for qualified uses as allowed by its charter.
6. Anticipated Tax-Exempt Bond Financing and Exemption from Property Taxes. The Parties acknowledge and agree that two important financing and ownership elements of the Proposal, which support the economic viability of the Project, are (a) financing the Project long-term with tax-exempt bonds, and (b) qualifying the Project for an exemption from property taxes and sales taxes on construction materials. The Parties pledge to work together and to take reasonable and appropriate measures to structure, position and qualify the Project to be financed in such a manner and to secure the tax exemptions. The Parties further agree that acquisition of tax-exempt bond financing and exemption from property taxes are conditions precedent to the development of the Project in accordance with the Preliminary Proforma, as contemplated, and that proceeding with the development of the Project without either of these advantages shall be done only with the express written acknowledgment and consent of the Parties.
7. Preliminary and Final Development Proposals. The Development Team prepared a Preliminary Development Proposal which was initially submitted to the University in response to the ITN, and which has been updated and reflected in this Agreement and the Exhibits hereto, to constitute the Final Development Proposal (to be dated on or about June 10, 2009) (collectively, the "Proposal"). In preparing the Proposal, the Development Team, through its architect PGAL, has prepared and is utilizing conceptual/early schematic plans for all or a portion of the Project and has expended monies in good faith and in furtherance of the Project, all at no initial expense to the University. By its execution and delivery of this Agreement, the University indicates its acceptance of the Proposal and authorizes the Development Team to continue to undertake activities and provide services necessary or appropriate in furtherance of the Project. The Development Team does hereby pledge, and will endeavor to, in a timely manner, refine and confirm the assumptions and projections on which the Proposal is based, and provide the University ongoing updates and opportunities to review the plans, schedule and budget for the Project, as these are completed.
8. Commitment of Exclusivity and Good Faith. This Agreement, by and between the Parties, is intended to manifest the commitment of the Parties to one another and to the development of the Project, and to evidence their promise to work together exclusively, confidentially to the extent allowed under Florida law, and in good faith, to develop a successful student housing community(ies).

9. Termination of Agreement. The Parties agree that if, despite their best efforts, construction has not commenced on the Phase I of the Project by June, 2010, either Party may thereafter terminate this Agreement by so notifying the other Party, in writing.
10. Pre-development Expenses. The Development Team has expended and will continue to expend money to third parties, in good faith and in furtherance of the Project in accordance with the Proposal, and to cause the Closing of financing for the Project to occur. Such expenses shall include, but not necessarily be limited to, expenditures for site related surveys, tests and studies, architectural plans and specifications, engineering analyses, plans and specifications, permits and licenses, and various legal, administrative and financing advisory fees, as well as those other fees and expenses that are customarily incurred in furtherance of developments of the nature and scope of the Project (collectively, the "Pre-Development Expenses"). It is contemplated that upon acceptance of this Proposal by FAU, the University may begin to reimburse the Development Team, on a monthly basis, for budgeted Pre-Development Expenses as those are incurred. Such reimbursements will be limited to items that are approved by the University in writing before they are incurred, and that shall produce a defined deliverable to the University that will become the sole property of the University. Examples of such deliverables may include, but are not limited to, design and site preparation work. In the event that the Closing does not occur and construction is not commenced by January 15, 2010, the Development Team will need to evaluate the impact, if any, of a late start, including any anticipated schedule compression or acceleration costs. If the Closing and construction is not commenced by April 15, 2010, for any reason other than the failure of the Development Team to comply with the requirements of this Agreement, the University shall reimburse Development Team for the Pre-Development Expenses incurred in good faith and approved in advance by the University in pursuit of the Project, provided that such Pre-Development Expenses do not exceed the estimates for such expenses contained in a Pre-Development Expense Budget to be agreed to by the parties. To the extent that actual Pre-Development Expenses exceed the amounts budgeted in the Pre-Development Expense Budget, the Development Team shall obtain the written consent of the University prior to incurring such expenses, with University consent thereto not to be unreasonably withheld. The obligation of the University to reimburse the Development Team for the approved Pre-Development Expenses shall arise upon the first to occur of the following:

- (a) The election in writing of the University to not continue to pursue development of the Project as contemplated herein; or
- (b) Failure of the Closing of financing for the Project to occur on or before April 15, 2010.

The University shall provide the reimbursement to the Development Team for the approved Pre-Development Expenses in accordance with the provisions of Chapter 287, Florida Statutes.

11. Supporting Documentation. The Development Team shall submit to the University appropriate documentation evidencing the occurrence of each of the Pre-Development Expenses, in the form of copies of invoices, receipts, vouchers or the like, in such form and containing such information as is reasonably necessary in order for the University to determine that such items constitute Pre-Development Expenses incurred in accordance with the terms and conditions of this Agreement.

12. Alternative Dispute Resolution. The Parties agree that any dispute arising from or in any way related to this Agreement or the Project will be resolved through mediation and/or arbitration. The Parties also acknowledge and agree that they shall first attempt non-binding mediation with a mediator that is mutually agreeable to the Parties, and if the Parties are unable to resolve any such dispute in non-binding mediation, then any such dispute shall be resolved through binding arbitration administered by the American Arbitration Association. Both Parties shall share the costs of the dispute resolution process equally, although the attorneys and witnesses or specialists utilized by the respective Parties shall be the direct responsibility of each Party engaging such attorneys, witnesses or specialists, and their fees and expenses shall be the exclusive responsibility of the respective Parties. The Parties agree that this Agreement affects interstate commerce.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties, and may be amended or modified only in writing, executed by each Party.

14. Due Authorization; Binding Agreement. The Parties represent and warrant that the signatories below are duly authorized by the Party each represents to enter into this Agreement on behalf of said Party, and by their signatures do bind the Party they represent to the terms of this Agreement.

15. Controlling Law. This Agreement is governed by and will be interpreted and enforced under the laws of the State of Florida.

16. Counterparts. This Agreement may be executed in one or more counterparts and by the different parties hereto under separate counterparts, any one of which need not contain the signatures of more than one party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all parties have not signed the same counterpart hereof.

Florida Atlantic University

The Development Team

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Witness:

Witness:

PROPOSAL SUMMARY

This document summarizes the proposal ("Proposal Summary") by Crocker Partners LLC and its Development Team, including Balfour Beatty Capital and Capstone Development Corp. ("Development Team"), to Florida Atlantic University ("FAU" or "University"), to plan, design, develop, finance, construct and manage new (and in the case of management, existing) student residential communities (the "Project") for students attending FAU, on the main FAU campus in Boca Raton, FL. This Proposal Summary is intended to identify and outline the key terms, conditions, features and scope of the contemplated Project. At this stage in the process of development of the Project, this Proposal Summary is by necessity conceptual in certain areas, and predicated upon good faith projections, estimates and assumptions. As the Development Team is formally engaged to work with the University and, in time, potentially, with a Direct Support Organization ("DSO") that may be created to own and operate the Project, this Proposal Summary will be revised and updated to more specifically describe the final elements, features, assumptions and scope of the Project, as it evolves. This summary is incorporated into the Predevelopment Agreement among the parties. In the event of any discrepancies between this Summary and the Predevelopment Agreement, the terms of the Predevelopment Agreement will control.

PROJECT DESCRIPTION AND OVERVIEW. The Project procured under ITN # 08E-529, and as further contemplated and proposed herein, will include the design, development, financing and construction of new residential communities within the Innovation Village precinct of the FAU campus, designed to accommodate in the range of 2,400 upper-division undergraduate, graduate, and professional students. These new residential buildings and communities will be comprised mostly if not exclusively of apartment-style units with predominately if not exclusively single-occupancy bedrooms, in commercial grade residential buildings expected to be four to seven stories in height, with appropriate circulation, service and commons areas, building amenities, and office space for managerial and resident life staff. This new housing is expected to be delivered in two to three phases, and will include associated surface parking and site amenities, on lighted and landscaped grounds. Subject to the economic and budgetary parameters of the Project to be mutually developed and agreed upon by the University and the Development Team, it is the goal and expectation of these Parties that the quality of the buildings, grounds and interior finishes for the new housing will be commensurate with the South Campus Commons residential community at the University of Maryland, College Park, which FAU officials toured with members of the Development Team in May of 2009.

DEVELOPMENT AND DELIVERY SCHEDULE. The initial, approximately 1,226-bed phase of the Project ("Phase I") is expected to take roughly six to eight months in the planning and design phase, and roughly 16 to 18 months to construct. Future phases of the Project will be master-planned during the development of this initial phase, with full Phase II design expected to commence once market demand is sufficient to justify the development of a second phase of the Project. Assuming the site for Phase I of the Project and related parking can be provided unencumbered in a timely manner, that environmental and other applicable regulatory requirements can be satisfactorily addressed, that the University can make decisions relative to its input and participation in the Project on a timely basis, and that the senior and subordinate financing structure recommended by the Development Team and underwriter can be approved, and funding thus arranged for 100% of the Project development costs, the Development Team believes Phase I of the Project can be completed in time for student occupancy in August of 2011. It should be noted, however, that in order to meet this schedule, it will be necessary to complete all pre-construction activities – including securing applicable regulatory approvals, finalizing the plans and specifications, negotiating an acceptable and workable construction contract, and closing the project financing – by February 1, 2010.

SITE OPTIONS. This Proposal contemplates that the Development Team will work closely with the University to determine the most appropriate of the identified housing development sites within the Innovation Village precinct (“East Site” or “West Site”) to develop for the first and second 1,200-bed phases of housing development. *It is the preliminary consensus of the University and the Development Team, as of the execution of the Preliminary Development Agreement, to develop Phase I on the East Site, near the intersection of Lee Street and St. Lucie Avenue.* Accordingly, this will be the assumed sequence of development, unless facts or conditions are discovered which require a re-evaluation of this plan. The Development Team and the University will work cooperatively together to address and resolve, as expeditiously as is possible, any environmental issues or concerns associated with either site.

PARKING. This Proposal envisions developing surface parking for each phase of the Project at a target ratio of .7 to 1 parking spaces per residential bed developed, with as many of these spaces being constructed “on the housing sites” as possible. To the extent “off-site” parking needs to be built to meet the .7 to 1 ratio, it is assumed and understood that the University will provide any additional land or site(s), adequately served by utility services, that may be needed for the development of “off-site” parking, unencumbered and without additional cost to the Project beyond costs of construction and operation.

PRELIMINARY AND FINAL DEVELOPMENT BUDGETS. In putting together the initial development and construction budgets for this Proposal, the Development Team has assumed utilizing and completing the concept and schematic plans (“Schematic Plans”) developed by the proposed Project architect, PGAL, for the East Site. The Development Team has estimated the cost of development of Phase I of the Project, to be in the range of \$69,000,000. It is anticipated that the construction cost of the Project will be in the \$125 to \$140 per square foot range. The preliminary Development Cost Summary, attached hereto as Exhibit “B”, includes an estimate of hard construction costs, soft costs (including the fees for services provided by the architects and engineers, developer, and other professional consultants), and the estimated costs of financing. It also includes a contingency line item (“Contingency”), to cover unanticipated Project costs (those encountered both in the design, estimating and construction phases).

It is important to note that these preliminary cost projections represent a good faith estimate of the likely cost of developing the Project, based on the due diligence and cost estimating for this Project performed to date by the Development Team, and on the Development Team's historical experience with similar projects. While we believe these estimates are reasonable and credible, at this time the Development Team cannot confirm and does not guarantee this estimate. Only when we have (a) completed all due diligence (including any required, additional third party market/feasibility analysis, (b) received and incorporated all University input, (c) negotiated a firm construction contract with the Project general contractor, and (d) confirmed the financing structure and terms, will the Development Team be in a position to confirm and guarantee the development of the Project for a certain cost, as qualified by any remaining assumptions necessary at that time. At that time, however, it is the Development Team's intention, subject to final negotiations with the University and the underwriter, to guarantee delivery of the Project for a confirmed cost in the range of the preliminary Development Cost Summary, subject to the contingencies and qualifications included therein or as a part thereof. Our Proposal foresees and contemplates a lump sum, guaranteed maximum price approach to this development, under which the Development Team will be responsible for and have the risk of delivering the Project in accordance with a Final Development Budget, subject to Force Majeure events, unknown existing site conditions, or other circumstances or conditions beyond the control of the Development Team.

CHANGES IN KEY ASSUMPTIONS. The Development Team has developed and delivered to FAU this Proposal reflecting the scope and projected economics of the first phase of the Project, assuming we will move forward with concept and schematic plans developed for the East Site. Upon execution of this Agreement, the Development Team will undergo further master-planning and conceptual design process intended to refine the plans for the Project, particularly with respect to site utilization, building and parking

layouts, and the integration of other elements of Innovation Village with the housing development plans. Should the plans for the site or building development, or other significant development assumptions incorporated in this Proposal change, subject to approval by the Parties, the Development Team reserves the right to, and will update and amend this Proposal, its Development and Operating Budgets and Proforma, and/ or the Preliminary Development Agreement, to reflect those "sites and Project specific" changes.

UNIVERSITY INPUT AND REVIEW OF DESIGN DEVELOPMENT PLANS. As the design process progresses from Schematic Plans to Design Development through 50% and Final Construction Documents, the Development Team will at each design milestone a) provide the University with the progress set of plans and specifications for review and approval, understanding that under the compressed design schedule that the architect will continue designing unless otherwise directed by the University, and b) prepare and provide construction cost and Development Budget and Operating Proforma updates for University review and comment.

ENGAGEMENT OF PROJECT DESIGN CONSULTANTS AND CONTRACTORS. The design and construction of the Project, during the months immediately following the approval and execution by the Parties of the Preliminary Development Agreement, will be pursuant to existing contracts for architectural and engineering, and pre-construction services, currently held by FAU with PGAL and Balfour Beatty Construction, respectively. At the appropriate points in the development process, consistent with the milestones on an approved Project Development Schedule ("Schedule"), the Development Team will enter into contractual agreements with these design consultants and contractors, replacing the contracts currently in place, to complete the design phase of the Project, secure the necessary governmental approvals and permits for the Project, and finalize pre-construction planning and cost estimating. Thereafter, upon securing and closing the senior and subordinate financing for 100% of the Project costs, the Development Team will schedule the commencement and completion of the Project construction in time for completion, delivery and occupancy of Phase I in August 2011.

DEVELOPMENT RESPONSIBILITIES. Under this Proposal, the Development Team will be fully responsible for the coordination and facilitation of the planning, development, financing and construction of the Project (with input and assistance as appropriate from University officials). This will include the securing of all approvals and permits necessary or applicable from governmental and/or regulatory authorities, except as expressly qualified in the Proposal. The Development Team will oversee and monitor the design and construction work being performed by the qualified, experienced architects, engineers, general contractor. The University will have no developmental "obligations" relative to the Project, other than to provide the sites for each phase of the Project and for any related, off-site parking, and to exercise its right and obligation to provide input, assistance, support, co-ordination, facilitation, and approvals of the Project on a timely basis. To the extent the University is authorized by state or local authorities to provide code review of the Plans and Specifications, and/or to provide inspections of construction work as it is put into place, those functions will be provided by the University.

CONTEMPLATED BUILDING TYPE. Phase I of the Project contemplates two commercial grade, concrete and/or steel composite framed apartment buildings seven stories in height with stair and elevator access to the upper floors as required by applicable building codes. Construction materials will include a combination of painted/colored stucco exterior, and flat roofs. The buildings are currently assumed to have a central 2 pipe heating and cooling system (though other options mutually acceptable to the Parties will be explored), fire protection sprinklers, fire alarms, smoke detectors, security systems, and fully equipped kitchens. The Project will be designed and constructed to meet applicable building codes. The University will retain final approval rights over all components of the design, such approval not to be unreasonably withheld.

SITE PLAN CONCEPT. We envision the Project will be constructed in at least two phases on the two designated East and West sites. The initial phase is expected to include two apartment buildings containing approximately 1,226 beds, with a parking at a ratio of .7 spaces per bedroom, or 70% of building capacity. The Development Team will endeavor to design the site and buildings in a manner consistent with and complimentary of the architectural context of the FAU campus, and consistent with the University's current master plan for Innovation Village. Upon execution of this Agreement and authorization from FAU for the Project to move forward, the Development Team will begin a collaborative master planning, programming and design exercise with FAU that will include confirming or revising the initial building concepts as well as confirming the East Site as most appropriate for Phase I. The University retains all final approvals over building and site plans, such approvals not to be unreasonably withheld.

As currently envisioned, Phase I of the Project will include approximately 315 to 320 apartment-style units, predominantly 4 bedroom, 2 bath units with fourteen (14) 1 bedroom, 1 bath RA units (1 per floor) and four 3 bedroom, 2 bath Resident Manager apartments. All of these units, along with the common areas, lounges and amenity spaces, will be furnished with furniture and accessories appropriate to the student residential market. Amenities provided will be consistent with those shown on the PGAL concept plans, subject to collaborative refinements to be agreed upon by the Parties based on programming decisions and overall Project economic considerations.

PROJECT MANAGEMENT. This Proposal envisions that the University or the DSO will contract with the Development Team and its property management specialist, Capstone On-Campus Management, ("COCM") to provide property management services to the Project. COCM is a highly experienced management company specializing in working with and for colleges and universities in the operation of residential communities on or near the campus.

It is proposed that COCM will manage the "Project" (including responsibility for all marketing, leasing, maintenance, and financial management and accounting activities), with the support and assistance, as appropriate, of the University. For purposes of this agreement the "Project" is contemplated to be the housing component of the new Innovation Village residential communities described the Project Description and Overview of this Proposal Summary as well as the existing 2,400 beds of campus housing that currently exist on the FAU main campus. The "Project" shall not include any new beds the University may construct for lower division undergraduates unless expressly agreed to by the parties. Among the keys to managing student-oriented housing facilities are (a) the recruitment and retention of qualified and fairly-compensated on-site management staff, and (b) experienced, competent supervision and oversight by a corporate office management team. COCM will provide both for the Project. The Operating Budget will include sufficient staffing to manage both the Administrative and the Facilities Management aspects of the project, and this staffing will be developed in accordance with generally accepted property management standards. The on-site management will be supervised and augmented by a Regional Manager and COCM's corporate staff, which manages similar on-campus student residential communities across the country. Our staff will maintain the new housing community in the best interests of both the residents and the financial goals set for the project and will remain dedicated to achieving the highest economic integrity possible that supports the best interests of the residents and FAU. Finally, it the goal of COCM to retain as many of the existing FAU Housing employees as possible for at least one year under the caveats that a) these employees are considered to be assets to the Project's ongoing and future success and b) these employees fit within the budgeted guidelines established for the staffing of the Project.

It is contemplated that COCM will work closely and collaboratively with the FAU Division of Student Affairs, and Department of Housing and Residential Life to develop a "Shared Governance" arrangement, through which the University will provide the Resident Life, Judicial, and Student Development Programming services for the Project. If agreeable to the University, under this proposed Shared Governance

arrangement it is anticipated that COCM will handle operational and facility maintenance duties and that FAU will handle the collection of rental/miscellaneous income as well as the implementation and oversight of the Student Development Program (which includes Residence Life services and staffing as well as residential student Judicial and Programming services). Compensation for the payroll and administrative expenses for any services provided by the FAU Department of Housing and Residential Life as well as any additional administrative services supplied by other departments within FAU will be agreed upon in advance and will be part of the accepted annual Operating Budget.

COCM will be paid a fee of 4 % of collected revenues, reflected as an annual expense in the Project Operating Budget, as compensation for its provision of the above described property management services.

Further keys to the contemplated operational approach are: individual leases or licenses for every resident, -- backed by a parental guaranty (except where the resident can meet and verify independent and adequate financial status), strict but fair enforcement of rules and regulations (including care of the property), and a pro-active, rather than re-active approach. This combination of on-site and home office management, underpinned by a proactive management philosophy honed over the past nearly twenty years with similar projects in virtually every region of the U.S., should position the Project for short and long-term success, particularly with the University Department of Housing and Residential Life actively involved in providing the Student Development Programming.

POLICE AND FIRE SERVICE. It is the Development Team's understanding that FAU provides its own police services on the campus, and that the City of Boca Raton provides fire protection services on the FAU campus. Obviously, it is essential that police service be provided to the Project, and that a commitment for such service be confirmed as soon as possible. The Parties agree to work in good faith and to engage in discussions with the City to determine the best and most cost effective way to secure fire and police protection to the Project.

The signature of the representatives of the Parties below reflects the agreement of the Parties to the terms of the Proposal as outlined in this Proposal Summary.

THE DEVELOPMENT TEAM

FLORIDA ATLANTIC UNIVERSITY

By: _____

By: _____

Its: _____

Its: _____