FAU
BOARD OF TRUSTEES
Florida Atlantic University

Item: _VIII._____

Wednesday, August 19, 2009

SUBJECT: Certification and Establishment of the FAU Finance Corporation as a Direct Support Organization of Florida Atlantic University

PROPOSED BOARD ACTION

Adopt a Board of Trustees resolution certifying that the FAU Finance Corporation ("FAUFC") is operating in a manner consistent with the goals of the university and in the best interest of the state, and establishing FAUFC as a direct-support organization of FAU, pursuant to Section 1004.28, Florida Statutes.

BACKGROUND INFORMATION

On July 22, 2009, concurrent with its approval of a Pre-Development Agreement with Crocker Partners, LLC, this Board approved unanimously a resolution (i) approving the formation of a not-for-profit corporation to finance and operate University facilities and (ii) authorizing the President to take such further actions and to execute such documents as are necessary and appropriate to achieve the purposes of such resolution.

In accordance with this resolution, the articles of incorporation for a newly formed not-for-profit corporation named the FAU Finance Corporation have been filed with the State of Florida and the bylaws for the FAUFC have been drafted and will be submitted for approval to both the FAUFC and this Board prior to becoming effective.

FAUFC is a Florida not-for-profit corporation organized and operated exclusively to receive, hold, invest and administer property and to make expenditures to or for the benefit of FAU. The FAUFC bylaws provide that the President of the University (or the President's designee) and the University Chief Financial Officer (or his or her designee) shall serve on the FAUFC Board of Directors, and a minimum of one and maximum of five directors shall be elected by majority vote of the FAUFC Board of Directors.

Before an eligible entity may be deemed a university direct-support organization under Florida law, the University Board of Trustees must certify that the entity is operating in a manner consistent with the goals of the university and in the best interest of the state.

IMPLEMENTATION PLAN/DATE

Upon certification by the FAU Board of Trustees. Certification by the FAU Board of Trustees is the only outstanding step necessary to establish the direct-support organization status of FAUFC. FAUFC satisfies the statutory requirements in all other respects.

FISCAL IMPLICATIONS

Certification of the FAUFC as a direct-support organization will not impose any financial requirements upon the University. A university direct-support organization may be authorized to use property, facilities and personal services at the university, subject to budget and audit review and oversight. Gifts received by a direct-support organization on behalf of a state university are provided the opportunity to receive state matching funds in accordance with applicable state law. FAUFC's status as an FAU direct-support organization is anticipated to facilitate and enhance revenues and fundraising efforts for FAU.

Supporting Documentation: Proposed Resolution
FAUFC Bylaws & Articles of Incorporation

Presented by: David L. Kian, General Counsel Phone: 561-297-3007

FAU
BOARD OF TRUSTEES
Florida Atlantic University

Florida Atlantic University Board of Trustees Resolution

Wednesday, August 19, 2009

A RESOLUTION: (I) CERTIFYING THAT THE FAU FINANCE CORPORATION IS OPERATING IN A MANNER CONSISTENT WITH THE GOALS OF THE UNIVERSITY AND IN THE BEST INTEREST OF THE STATE AND (II) ESTABLISHING THE FAU FINANCE CORPORATION AS A UNIVERSITY DIRECT-SUPPORT ORGANIZATION

WHEREAS, FAU Finance Corporation ("FAUFC") is a Florida not-for-profit corporation organized and operated exclusively to receive, hold, invest and administer property and to make expenditures to or for the benefit of FAU; and

WHEREAS, the FAU Board finds that FAUFC is operating in a manner consistent with the goals of the university and in the best interest of the state; and

WHEREAS, the FAU Board finds it desirable that FAUFC be deemed a direct-support organization of FAU, pursuant to Section 1004.28, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The FAU Board of Trustees hereby certifies that FAUFC is operating in a manner consistent with the goals of the university and in the best interest of the state.

2. The FAU Board of Trustees hereby resolves that FAUFC is a direct-support organization of the university, pursuant Section 1004.28, Florida Statutes.

This Resolution shall become effective immediately upon passage.

CERTIFICATE OF THE CORPORATE SECRETARY

The Undersigned, Corporate Secretary of the Florida Atlantic University Board of Trustees, does hereby certify that the attached resolution is a true and accurate copy as adopted by the Florida Atlantic University Board of Trustees on August 19, 2009.

THE FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES

Dated: _____

By: _____
Corporate Secretary

BYLAWS

OF

THE FAU FINANCE CORPORATION

Effective _____, 2009

BYLAWS
OF
FAU FINANCE CORPORATION

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BYLAWS
OF
FAU FINANCE CORPORATION

ARTICLE I
NAME

The name of the Corporation shall be "FAU Finance Corporation", a Florida not for profit corporation (the "Corporation"). The Corporation shall maintain a registered office in the State of Florida and a registered agent at such office.

ARTICLE II
MEMBERS

The members of the Corporation shall consist of the members of the Corporation's Board of Directors (the "Board of Directors").

ARTICLE III
BOARD OF DIRECTORS

SECTION 3.1. General Powers. The business, property, affairs and funds of the Corporation shall be managed, supervised and controlled by a Board of Directors subject only to applicable law and the limitations contained in the Articles of Incorporation of the Corporation (the "Articles of Incorporation") and these Bylaws and the powers and duties reserved to the Board of Trustees (the "Board of Trustees") of The Florida Atlantic University (the "University") and the President of the University or the President's designee in regards to the Corporation. The Board of Directors shall have the authority to adopt policy for the Corporation, consistent with the Articles of Incorporation and these Bylaws.

SECTION 3.2. Reserved Powers. The President of the University or the President's designee shall have the following specific powers and duties with regard to this Corporation:

(a) To monitor and control the use of the University's resources by this Corporation;

(b) To control the use of the University name by this Corporation;

(c) To monitor compliance of this Corporation with federal and state laws;

(d) To recommend an annual budget of this Corporation to the Board of Trustees;

(e) To review and approve annual expenditure plans of this Corporation; and

(f) To ensure that the Corporation enacts a policy on ethics and conflicts of interest.

SECTION 3.3. Appointment and Election of Directors. The Directors of the Corporation shall be appointed in the following manner:

(a) One appointed Director shall be the President of the University or the president's designee;

(b) One appointed Director shall be the University Chief Financial Officer or his or her designee; and

(c) A minimum of one (1) and maximum of five (5) elected Directors shall be elected by majority vote of the Board of Directors from the nominations of the Corporation's Nominations Committee or from nominations made from the floor. Each elected Director must have demonstrated outstanding qualities of leadership or managerial ability.

The term of office of each Director shall be four years in length. A Director shall not be eligible to serve more than two consecutive terms. A Director who has served two consecutive terms may be re-appointed to the Board of Directors after the expiration of one-year following the end of such Director's last previous term and will have the status of a new Director. Notwithstanding the foregoing, the President of the University or the President's designee acting in the capacity of a Director pursuant to Section 3.3(b) above, shall serve until the earlier of such President's resignation, removal from office or death. A vacancy on the Board of Directors may be filled by a majority vote of the remaining Directors in accordance with the nominations process outlined in Section 3.3(c) of these Bylaws; however, vacancies of appointed Directors shall be filled by the President or Chief Financial Officer, respectively. If a Director is appointed or elected to fill a vacancy before the end of the term of such replaced Director, the newly appointed or elected Director shall serve for the remainder of the term of the replaced Director.

SECTION 3.4. Removal of Directors. A Director may resign at any time by submitting a written resignation to the Chair of the Board of Directors. Any Director, other than the President of the University or the President's designee, may be removed from the Board of Directors at any time with or without cause by a two-thirds vote of the Board of Directors.

SECTION 3.5. Conflict of Interest and Code of Ethics. Directors stand in a fiduciary relationship to the Corporation and the University. Therefore, Directors shall act in good faith, with due regard to the interests of the Corporation and the University, and shall comply with the fiduciary principles and law set forth in the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes. Directors shall comport themselves in accord with the statutory Code of Ethics and the Conflict of Interest Policy attached to these Bylaws as Appendix "B". Each Director shall annually complete and sign a disclosure form as required by said policy.

SECTION 3.6. Meetings. An annual meeting of the Board of Directors shall be held within the State of Florida. Following proper notice, regular meetings of the Board of Directors may be held, at such time and place as from time to time shall be determined by the Chair of the Board of Directors. Special meetings of the Board of Directors may be called by (a) the Chair of the Board of Directors, or (b) the Secretary of the Corporation, or (c) any two

officers. Written notice of the time and place of such special meetings of the Board of Directors shall be given to each Director as provided by law, along with all materials needed for the meeting. All meetings of the Corporation shall be noticed and open to the public in accordance with the requirements of Section 286.011, Florida Statutes.

SECTION 3.7. Quorum. At all meetings of the Board of Directors, the presence of a majority of the Board of Directors shall be necessary and sufficient to constitute a quorum. A quorum must be present to transact the business of the Corporation at a meeting.

SECTION 3.8. Voting. Each Director shall have one vote. All questions shall be decided by the act of a majority of the Directors present, except as otherwise provided in these Bylaws, the Articles of Incorporation, or Florida law. Proxies, general or special, shall not be accepted for any purpose in the meetings of the Directors or committees.

SECTION 3.9. Executive Session. The Legislature has provided limited exemptions from the Sunshine law for certain meetings because of the confidential material that must be discussed. When the Board decides to avail itself of any such exemption, it will do so by convening an executive session of the Board.

A. Pending Litigation:

Meetings to discuss pending litigation in which the Board is presently a party before a court or administrative agency may be held in executive session outside the Sunshine, provided the following procedures and conditions are met.

1. Counsel for the Board must advise the Board at a public meeting that he or she desires an executive session and must state the basis therefor.

2. Only Board members, the Board's attorney(s) and the President of the University may attend a closed executive session to discuss pending litigation. Staff members or consultants are not permitted to attend. The Board must give advance public notice, pursuant to its procedures, of the time and date of the executive session, and must identify the names of the persons who will be attending the closed session.

3. The session must commence with an open meeting at which the Chairperson or his/her designee shall announce the commencement of the meeting, the estimated length of the closed executive session, and the names of the persons attending. At that point, the meeting is closed to all except those whose names have been announced. The executive session may then commence. At the conclusion of the executive session, the meeting must be reopened to the public and the person chairing the meeting shall announce the termination of the closed executive session.

4. A certified court reporter must record the entire executive session. The reporter must record the times of commencement and termination of the executive session; all discussions and proceedings; the names of all persons present at any time; and the names of all persons speaking. No portion of any executive session may be held off the record. The Board must have the court reporter's notes fully transcribed, and the transcript filed with its records custodian. The transcript is exempt from Florida's public records law, and is not to be disclosed until the litigation concludes. Upon the conclusion of the litigation, the transcript becomes part of the public record.

5. The subject matter of the closed session must be confined to settlement negotiations or strategy sessions related to litigation expenditures. The Board may not go beyond these strict parameters. No final action, no vote, and no decisive action may be taken during the closed session. Any final decision to settle a lawsuit, for a certain amount of money, or under certain conditions, is a decision that must be voted upon in a public meeting.

ARTICLE IV
OFFICERS

SECTION 4.1. Officers. The officers of this Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer and such other officers as may be determined by the Board of Directors. The offices of Secretary and Treasurer may be held by a single person. Only Directors of the Corporation may be elected to the office of Chairperson, Vice Chairperson, Secretary and Treasurer of the Corporation pursuant to this Article IV, from nominations submitted to the Directors by the Nominations Committee or from nominations from the floor. All officers shall have such authority and perform such duties as described below:

(a) Chairperson. The Chairperson shall preside at all meetings of the Board of Directors and shall do and perform such other duties as may be assigned by the Board of Directors. The Chairperson may execute all documents in the name of the Corporation, with the Secretary attesting, including but not limited to all contracts, deeds, notes, certificates and other documents or legal instruments authorized or issued by the Board of Directors.

(b) Vice Chairperson. The Vice Chairperson shall act as Chairperson in the Chairperson's absence or unavailability, and shall do and perform such other duties as may be assigned by the Board of Directors.

(c) Secretary. The Secretary shall keep full and accurate minutes for all meetings of the Board of Directors. The Secretary shall transmit all notices required by the Bylaws of the Corporation, as the same may be amended from time to time. The Secretary may attest to documents with the Chairperson in the name of the Corporation and, when required, shall affix thereto the seal of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to examination of any Director, and shall

in general perform all duties incident to management of the office of Secretary for the Board of Directors.

(d) Treasurer. The Treasurer shall be a member of the Finance Committee, and must have the requisite financial skills to be designated as a Financial Expert pursuant to the criteria of Sarbanes-Oxley. The Treasurer shall prepare the annual budget and present the financial statements of the Corporation to the Board of Directors at each regular meeting of the Board of Directors and at such other times as the Board of Directors may determine. The Treasurer shall ensure that all financial reports and expenditure plans are filed in a timely manner in accordance with applicable law. The Treasurer shall ascertain that a full and accurate account is made of all monies received and paid out on accounts administered by the Corporation in accordance with guidelines or directives established by the Board of Directors, and shall in general perform all duties incident to management of the office of Treasurer for the Board of Directors, including, but not limited to, the following:

(a) The deposit of all monies, checks, and other credits to the account of the Corporation in such bank or banks or other depositories as the Board may designate; the review of all receipts and vouchers for payment made to and all vouchers and checks made by this Corporation; rendering to the Board an account and statement of all the Treasurer's transactions at each meeting of the Board and at such other times as the Board may determine; preparation of a quarterly expenditure plan to be reviewed and approved quarterly by the President of FAU or his or her designee who shall be a Vice President or other senior officer of FAU reporting directly to the President. The plan shall separately delineate planned actions which result in a commitment of University resources or which represent significant commitment of the resources of the Corporation.

SECTION 4.2. Appointment and Term of Office. The officers of the Corporation shall be elected as necessary by majority vote of the Board of Directors at the annual meeting. Each of the officers shall serve terms of two years, each commencing immediately following their election or appointment.

SECTION 4.3. Removal. Any officer may be removed with or without cause by a two thirds vote of the Board of Directors.

SECTION 4.4. Vacancies. A vacancy in any office because of death, resignation, removal or otherwise may be filled by a vote held at a meeting of the Board of Directors.

ARTICLE V
COMMITTEES

SECTION 5.1. Creation of Committees. The Chairperson of the Board of Directors may appoint such committees as he/she may deem necessary and advisable to assist in the conduct of the Corporation's affairs, each to consist of one or more of the Directors of the Corporation. Such other committees shall have such functions as may lawfully be delegated by

the Board of Directors to the extent provided in the resolution or resolutions creating such committee or committees. The actions of any committee shall be subject to review and approval by the Board of Directors, except when the power to act is specifically granted to a committee by the Board of Directors. Each committee shall keep approved minutes and submit them to the Board of Directors for review.

SECTION 5.2. Nominations Committee. The Board shall appoint a Nominations Committee of three (3) members, whose duty it shall be to nominate candidates to fill vacancies of elected Directors and officers of the Corporation. The Board shall name the Chair of the Committee. The slate of nominations will be submitted to the Board of Directors for consideration at its next ensuing meeting.

SECTION 5.3. Finance and Audit Committee. The Finance and Audit Committee shall be responsible for the preparation and periodic review of the Corporation's financial statements and the annual budget. The budget shall be prepared before the beginning of the University's fiscal year, approved by the Directors and recommended by the University President to the Board of Trustees each year no later than sixty (60) days following the beginning of the Corporation's fiscal year. The Board of Trustees must approve the Corporation's budget before it can be enacted. The Finance and Audit Committee shall cause an audit to be made by an independent certified public accountant of the books of the Corporation as soon as possible after the close of the fiscal year of the Corporation, and to have the results reported to the Board of Directors at its next ensuring meeting. The annual audit report shall be submitted by the University President to the Board of Trustees for review no later than the end of the fourth month following the close of the organization's fiscal year. The annual audit report shall also be submitted to the Auditor General and to the Board of Governors no later than nine (9) months after the close of the Corporation's fiscal year. The audit shall be conducted in accordance with rules promulgated by the Board of Trustees and with the policies adopted by the Auditor General. The Finance and Audit Committee also shall ensure that the financial records of the Corporation are maintained in accordance with generally accepted accounting principles, that consistent and reliable financial practices are followed and that the current financial status of the Corporation is reported to the Board of Directors regularly.

SECTION 5.4. Meetings of Committees. Following proper notice, regular meetings of committees may be held at such time and at such place as shall from time to time be determined by the Board of Directors or the chairperson of the committee, upon proper notice in accordance with the Sunshine law. Meetings of committees may be conducted by conference telephone or similar communications facilities, in the same manner as if the meeting were held in person, if the Chairperson or the Chairperson of the Committee determines it is appropriate and is in full compliance with all requirements of the Sunshine law. The notice of any meeting conducted by means of telephone or similar communication facilities will state where and how members of the public may gain access to the meeting.

SECTION 5.5. Vacancies on Committees. Vacancies on any committees shall be filled by a majority vote of the Board of Directors then in office at any regular or special meeting.

ARTICLE VI
INDEMNIFICATION

The Corporation shall indemnify each Director, officer, employee and agent of the Corporation, and may indemnify any other person, to the full extent permitted by the Florida Not For Profit Corporation Act and other applicable laws. The rights conferred by this Article VI shall not be exclusive of any other right that any Director, officer, employee, agent or other person may have or hereafter acquire under the Florida Not For Profit Corporation Act, any other statute or agreement, pursuant to a vote of disinterested Directors, or otherwise. No repeal or modification of this Article VI shall limit the rights of any Director, officer, employee or agent to indemnification with respect to any action or omission occurring prior to such repeal or modification.

ARTICLE VII
AMENDMENT

SECTION 7.1. Amendments to Bylaws. These Bylaws may be amended by a two-thirds vote of the Board of Directors, and shall be submitted for approval to the University Board of Trustees prior to becoming effective.

SECTION 7.2. Amendments to Articles of Incorporation. The Articles of Incorporation of the Corporation may be altered or amended at any regular or special meeting of the Board by resolution approved by the affirmative vote of two-thirds of the voting Directors present, subject to approval by the Secretary of State of Florida as required by law and subject to any approval which may be required by the Board of Trustees. Written notice of any proposed amendment of the Articles of Incorporation shall be mailed to each Director not less than fifteen (15) days prior to any meeting at which such proposed amendment is to be considered.

SECTION 7.3. Requirements of Florida Law. All amendments to the Bylaws and Articles of Incorporation of the Corporation shall comply with Florida law and appropriate state rules and policies.

ARTICLE VIII
MISCELLANEOUS

SECTION 7.4. Fiscal Year. The fiscal year of the Corporation shall be consistent with the fiscal year of the University.

SECTION 7.5. Records. Public access to the records of the Corporation shall be governed by the provisions of Chapter 1004.28, Florida Statutes.

SECTION 7.6. Checks and Depositories. Except as may otherwise be specified in these Bylaws, the Board shall provide, by Resolution, which officers or Directors or other designees are authorized to draw checks on the accounts of the Corporation and may impose any reasonable terms, conditions or limitation on such authority. Checks or drafts of the Corporation shall be signed by any two of the officers or Directors or other designees, authorized to do so by the Board or by these Bylaws. Funds of the Corporation shall be deposited to the credit of the Corporation only in institutions approved by the Board by resolution and only in financial institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

SECTION 7.7. Seal. The seal of this Corporation shall bear the words "FAU Finance Corporation", as more particularly shown in the following impression:

ARTICLE IX
EMPLOYEES

Any person employed by the Corporation shall not be considered an employee of the State of Florida or an employee of the University by virtue of such employee's employment by the Corporation. The Corporation shall provide equal employment opportunities to all persons regardless of race, color, religion, gender, age or natural origin.

ARTICLE X
PARLIAMENTARY RULES

The most recent edition of "Roberts Rules of Order" shall be followed in conducting the meetings of the Board of Directors, unless otherwise provided in these Bylaws.

ARTICLE XI
DISSOLUTION

In the event the University's Board of Trustees approves a decertification of the Corporation as a direct-support organization of the University, the Directors shall, after paying or providing for all debts and obligations of the Corporation, transfer the assets of the Corporation to the University and take all steps necessary to dissolve the Corporation.

APPROVED BY THE BOARD OF DIRECTORS ON _____, 2009

ARTICLES OF INCORPORATION
OF
THE FAU FINANCE CORPORATION

The undersigned hereby forms a not-for-profit corporation under Chapter 617 of the Florida Statutes, and for these purposes adopts the following Articles of Incorporation.

ARTICLE I
NAME

The name of this corporation shall be THE FAU FINANCE CORPORATION. For convenience, the corporation shall be referred to herein as the "Corporation."

ARTICLE II
PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS

The address of the Corporation's principal office and registered office is Florida Atlantic University, 777 Glades Road, Boca Raton, Florida 33431.

ARTICLE III
PURPOSES

(a) The Corporation shall be organized and operated to serve public interests as a direct-support organization for the Florida Atlantic University (the "University"), as defined in Section 1004.28 of the Florida Statutes, as may be amended, and shall support the activities and educational purposes of the University by providing finance and investment-related assistance in connection with the acquisition or construction of capital or other University projects, including but not limited to the structuring of debt relating thereto;

(b) The Corporation shall exist and operate solely for scientific, educational, religious and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, (the "Code") and no part of the income or assets of this Corporation shall be distributed to, nor inure to the benefit of, any individual;

(c) The Corporation shall not be operated for the primary purpose of carrying on an unrelated trade or business as defined in Section 513 of the Code and shall not be operated for the benefit of private interests.

ARTICLE IV
POWERS

(a) The Corporation shall have and exercise all powers of a not-for-profit corporation as the same now exist or may hereinafter exist under the laws of the State of Florida.

(b) Upon certification as a direct support organization by the University's Board of Trustees (the "Board of Trustees"), the Corporation shall be authorized to use the property, facilities and personal services of the University, to receive, hold, invest or administer assets or property and to make expenditures for the benefit of the University in accordance with Florida law. The Corporation further shall be authorized to issue revenue bonds, certificates of participation or other forms of indebtedness upon approval of the University's Board of Trustees and in accordance with the applicable laws of the State of Florida, and to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the University.

(c) Notwithstanding any other provision hereof, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from federal income taxation under Section 501(c)(3) of the Code or by an organization, contributions to which are deductible under Section 170(c)(2) of the Code. No part of the assets, income or profits of the Corporation shall be distributable to, or inure to the benefit of, its members, Directors or officers or any private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation to its employees for services rendered and to make payments and distributions in the furtherance of the purposes set forth herein.

ARTICLE V
MEMBERS

The members of the Corporation shall consist of the members of the Corporation's Board of Directors.

ARTICLE VI
DIRECTORS AND THE MANNER OF ELECTION OF DIRECTORS

All corporate powers of the Corporation shall be exercised by or under the authority of the Corporation's Board of Directors. The Board of Directors shall carry out the purposes of the Corporation in compliance with these Articles of Incorporation and the Corporation's Bylaws. The method of appointment or election of Directors shall be as stated in the Bylaws of this Corporation.

ARTICLE VII
BYLAWS

The Bylaws of the Corporation shall be initially approved by a two-thirds vote of the Board of Directors and thereafter may be amended by a two-thirds vote of the Directors at the annual meeting of the Directors or at a duly called meeting of the Directors in accordance with the Bylaws. The Bylaws and amendments thereto shall be submitted for approval to the University Board of Trustees prior to becoming effective.

ARTICLE VIII
AMENDMENT

These Articles of Incorporation may be amended by the affirmative vote of two-thirds of the voting Directors in the manner provided by law, subject to any approval which may be required by the University Board of Trustees.

ARTICLE IX
INDEMNIFICATION

Every Director, officer and employee of the Corporation shall be indemnified by the Corporation against and reimbursed for all reasonable expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of their being or having been a Director, officer or employee of this Corporation, or any settlement thereof, whether or not they are Directors, officers or employees at the time such are incurred, except in such cases where the Director, officer or employee is adjudged guilty of willful malfeasance or misfeasance in the performance of duties; provided that, in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Corporation. With prior approval of the Board of Directors, costs, charges and expenses (including attorneys' fees) incurred by a Director, officer or employee may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Director, officer or employee to repay all amounts so advanced in the event it shall ultimately be determined that such Director, officer or employee is not entitled to be indemnified by the Corporation as authorized in this Article or under state law, and upon satisfaction of such other conditions as are required by current or future legislation. The decision by the Corporation to indemnify a Director, officer or employee or to make advance to a Director, officer or employee shall be final and shall not be subject to judicial review. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Directors, officers or employees shall be entitled. Notwithstanding the foregoing, the Board of directors shall have the power to consolidate the representation of individual Directors, officers and employees so that the Corporation shall not incur unreasonable attorneys' fees and other costs. Prompt written notice, by registered mail, of all claims for which indemnification is or may be sought shall be given to the Corporation and no settlement of any such claim shall be entered into without reasonable prior written notice, by registered mail, having been given to the Corporation.

ARTICLE X
TERMS OF EXISTENCE

Subject to the provisions of Article XI of these Articles of Incorporation, the Corporation shall have perpetual existence.

ARTICLE XI
DISSOLUTION

In the event of dissolution of the Corporation, the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed to the University Board of Trustees in such manner as the Board of Directors of the Corporation may specify, or if such organization has ceased to exist, to the University, or if such organization has ceased to exist, to such other organization or organizations that are exempt from federal income tax under Section 501(c)(3) of the Code as directed by the Board of Governors of the State of Florida.

ARTICLE XII
INCORPORATOR

The name and the street address of the incorporator for these Articles of Incorporation is

Dennis J. Crudele
Florida Atlantic University
777 Glades Road, ADM 341
Boca Raton, Florida 33431

ARTICLE XIII
REGISTERED OFFICE AND REGISTERED AGENT

The Corporation hereby designates its Registered Office to be located at Florida Atlantic University, Office of the General Counsel, 777 Glades Road, ADM 367, Boca Raton, Florida 33431, or such other place as it may from time to time designate, and the General Counsel of the University as its Registered Agent. In accordance with the Bylaws, the General Counsel shall serve as the Registered Agent of the Corporation, to accept service of process within this State, and to serve in such capacity until a successor is selected and duly designated.

IN WITNESS WHEREOF, I have set my hand and seal this 11th day of August 2009.

_____
Name: Dennis J. Crudele
Title: Incorporator

CERTIFICATE OF ACCEPTANCE AS REGISTERED AGENT

Having been named as the Registered Agent in the Articles of Incorporation of FAU Finance Corporation, being familiar with the obligations of that position, I hereby accept and agree to act in this capacity.

Dated: _____, 2009

_____

Name: David Kian
Title: General Counsel