RESOLUTION NO. 2013-67

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE MAYOR AND THE CITY CLERK, ON BEHALF OF THE CITY, TO ENTER INTO A USE AGREEMENT WITH FLORIDA NATIONAL UNIVERSITY, INC. TO PROVIDE THE GYMNASIUM AT BUCKY DENT PARK FOR COLLEGE BASKETBALL PRACTICES AND GAMES FROM SEPTEMBER 30, 2013 THROUGH AND INCLUDING FEBRUARY 28, 2014, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A".

WHEREAS, the City of Hialeah and Florida National University, Inc. are so located in relation to each other that it is to the advantage of each to enter into such agreement; and

WHEREAS, a use agreement of this nature would be beneficial to the City of Hialeah.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, on behalf of the City, to enter into a use agreement with Florida National University, Inc. to provide the gymnasium at Bucky Dent Park for college basketball practices and games from September 30, 2013 through and including February 28, 2014, a copy of which is attached hereto as Exhibit "A".

PASSED AND ADOPTED this 13 day of August, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of August, 2013.

Marbelys Fajjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to legal
sufficiency and as to form:

William M. Grodnick, City Attorney

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Resolution was adopted by a 6-0-1 vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes", Councilmember Casals-Munoz absent.

USE AGREEMENT BETWEEN CITY OF HIALEAH AND FLORIDA NATIONAL UNIVERSITY, INC.

This agreement is made and entered into this _____ day of _____, 2013, by and between the City of Hialeah (hereinafter referred to as "CITY"), a municipal corporation of the State of Florida having its principal place of business at 501 Palm Avenue, Hialeah, Florida, and Florida National University, Inc. (hereinafter referred to as "USER"), a Florida corporation having its principal place of business at 4425 West 20th Avenue, Hialeah, Florida 33012.

CONDITIONS OF USE

1. The CITY agrees to provide the gymnasium at Buck Dent Park at 2250 West 60th Street, Hialeah, Florida to the USER for their college basketball practices and games. The USER agrees to pay the CITY as follows: $1,310.00 prior to September 30, 2013, $970.00 prior to November 1, 2013, $1,030 prior to December 1, 2013, $1,260.00 prior to January 1, 2014, and $1,110.00 prior to February 1, 2014. The total rental fee owed is $5,680.00. (See Exhibit "1")

2. This agreement is effective from September 30, 2013 through February 28, 2014. Under no circumstances shall this agreement be renewed, amended, or extended except in a writing executed by both parties. The parties may agree to renew the terms of this agreement for a one-year period; provided, written notice of renewal is agreed to by both parties at least 30 days prior to the expiration of the agreement term.

3. The USER guarantees that no damage will be done to the facility.

4. The USER shall pay the CITY for the cost of any repair, rehabilitation, damage, correction, replacement or restoration of the facility or to defray any other unusual but reasonable expense borne by the CITY as a consequence of this agreement.

5. Either party hereto may terminate this agreement at any time by giving to the other party notice in writing at least 30 days prior to the intended termination date.

6. Any notice or demand, authorized or required under this agreement shall be in writing and shall be sent certified mail to the other party as follows:

CITY
Pablo Bermudez, Director
Hialeah Parks and Recreation Department
900 East 56 Street
Hialeah, Florida 33013
Ph. (305) 769-7727

FLORIDA NATIONAL UNIVERSITY
Maria Regueiro, President
4425 West 20th Avenue
Hialeah, Florida 33012
Ph. (305) 821-3333

7. The USER acknowledges that the USER and its personnel are not employees or independent contractors of the CITY and that the CITY shall not be responsible for providing workers' compensation insurance for any of the USER's personnel. The USER and its employees shall not be an employee of the CITY. It is agreed that the USER and its employees will acquire no rights to tenure, workers' compensation benefits, unemployment compensation

benefits, medical and hospital benefits, sick and vacation leave, severance pay, pension benefits or other rights or benefits offered to employees of the CITY, its departments or agencies.

8. The USER shall indemnify and save the CITY, its officials, employees, agents, representatives and attorneys, from and against any and all claims, liabilities, losses and cause of action which arise out of or in connection with USER's activities under this agreement, including all NEGLIGENT or intentional acts or omissions to act on the part of the USER or any person acting for or on its behalf, and from and against any orders, judgments, or decrees which may be entered and from and against all costs, attorney's fees, expenses incurred at the trial, appellate or administrative level or proceedings and liabilities insured in the defense of any claims or in the investigation thereof.

9. The USER agrees to carry liability insurance coverage in the amount no less than $1,000,000.00 combined single limit coverage for property damage and bodily injury. The USER shall have its insurer name the CITY as an additional insured on its general liability policy. It is understood that the CITY is not responsible for personal injury or property damage or any loss to the USER, its personnel or property during the term of this agreement. Insurance provided by the USER must provide coverage for personnel and customers attending performances, and individuals on the premises as acquaintances or friends of the USER from liability for loss, damage, injury and claims, whether to person or property, arising incident to USER's use of the premises and agrees to hold the CITY harmless from any damage sustained by it or any of its agents, employees or invited guests, including the patrons during use.

10. The USER shall not cause or permit any damage at Bucky Dent Park. No signs will be affixed to the exterior or interior of the building and no painting, alterations, repairs or modifications, etc., to any part of the building or furnishings will be permitted, unless specifically approved in advance by the CITY's Facility Manager. The cost for replacement of any equipment that is lost or damaged by the USER, its employees or representatives will be the responsibility of the USER. USER shall not cause or permit anything to be done whereby the said premises or equipment therein shall be in any manner injured, marred or defaced; and will not drive or permit to be driven nails, hooks, tacks or screws into any part of said building or equipment contained therein and will not make nor allow to be made any alterations of any kind to said building or equipment contained therein.

11. All keys for the gymnasium at Buck Dent Park shall remain in the possessions of the CITY.

12. All furnishings, fixtures, equipment, and property of every kind and description of the USER and of persons claiming by or through the USER which may be on the facility shall be at the sole risk and hazard of the USER and no part of loss or damage thereto for whatever cause is to be charged to or borne by the CITY.

13. Halls, walkways, fire exits, and driveways will be kept free of obstruction.

14. This agreement may be modified or amended only in writing by mutual consent of both parties.

15. The USER shall not assign or transfer its interest in the agreement without the written consent of the CITY.

16. In the event that Bucky Dent Park is rendered unsuitable for the music program by fire, hurricane, tropical storm or other acts of God, national or local calamity, act of War, riot or emergency or any unforeseen occurrence or labor dispute, including strikes or lockouts by persons employed by either party, which shall render fulfillment of this agreement by the CITY impossible, the CITY shall not be held legally responsible by USER for any damages caused thereby.

17. This agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this agreement is subject to the laws of the State of Florida, Miami-Dade County, Florida. Each party shall be responsible for its own attorney's fees and costs incurred as a result of any action or proceeding under this agreement. If either party brings any action or legal proceeding for damages for an alleged breach of any provision of this agreement or to enforce, protect or establish any term, condition or covenant of this agreement or right of either party, the parties agree to bear their own attorneys' fees and costs.

(THIS PART IS INTENTIONALLY LEFT BLANK)

IN WITNESS THEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATES INSERTED BELOW.

City of Hialeah

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010-0040

Attest:

Authorized signature on behalf of
City of Hialeah

Mayor Carlos Hernandez Date

Marbelys Fatjo
Acting City Clerk

(SEAL)

Approved as to legal sufficiency and form:

William M. Grodnick
City Attorney

Florida National University, Inc.

Florida National University
4425 West 20th Avenue
Hialeah, Florida 33012

Name:
Corporate Secretary

Maria Regueiro
President

(SEAL)

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USE AGREEMENT BETWEEN CITY OF HIALEAH AND FLORIDA NATIONAL UNIVERSITY, INC.

This agreement is made and entered into this 20th day of August, 2013, by and between the City of Hialeah (hereinafter referred to as "CITY"), a municipal corporation of the State of Florida having its principal place of business at 501 Palm Avenue, Hialeah, Florida, and Florida National University, Inc. (hereinafter referred to as "USER"), a Florida corporation having its principal place of business at 4425 West 20th Avenue, Hialeah, Florida 33012.

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Pablo Bermudez, Director
Hialeah Parks and Recreation Department
900 East 56 Street
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Ph. (305) 769-7727

FLORIDA NATIONAL UNIVERSITY
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7. The USER acknowledges that the USER and its personnel are not employees or independent contractors of the CITY and that the CITY shall not be responsible for providing workers' compensation insurance for any of the USER's personnel. The USER and its employees shall not be an employee of the CITY. It is agreed that the USER and its employees will acquire no rights to tenure, workers' compensation benefits, unemployment compensation

benefits, medical and hospital benefits, sick and vacation leave, severance pay, pension benefits or other rights or benefits offered to employees of the CITY, its departments or agencies.

8. The USER shall indemnify and save the CITY, its officials, employees, agents, representatives and attorneys, from and against any and all claims, liabilities, losses and cause of action which arise out of or in connection with USER's activities under this agreement, including all NEGLIGENT or intentional acts or omissions to act on the part of the USER or any person acting for or on its behalf, and from and against any orders, judgments, or decrees which may be entered and from and against all costs, attorney's fees, expenses incurred at the trial, appellate or administrative level or proceedings and liabilities insured in the defense of any claims or in the investigation thereof.

9. The USER agrees to carry liability insurance coverage in the amount no less than $1,000,000.00 combined single limit coverage for property damage and bodily injury. The USER shall have its insurer name the CITY as an additional insured on its general liability policy. It is understood that the CITY is not responsible for personal injury or property damage or any loss to the USER, its personnel or property during the term of this agreement. Insurance provided by the USER must provide coverage for personnel and customers attending performances, and individuals on the premises as acquaintances or friends of the USER from liability for loss, damage, injury and claims, whether to person or property, arising incident to USER's use of the premises and agrees to hold the CITY harmless from any damage sustained by it or any of its agents, employees or invited guests, including the patrons during use.

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16. In the event that Bucky Dent Park is rendered unsuitable for the basketball program by fire, hurricane, tropical storm or other acts of God, national or local calamity, act of War, riot or emergency or any unforeseen occurrence or labor dispute, including strikes or lockouts by persons employed by either party, which shall render fulfillment of this agreement by the CITY impossible, the CITY shall not be held legally responsible by USER for any damages caused thereby.

17. This agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this agreement is subject to the laws of the State of Florida, Miami-Dade County, Florida. Each party shall be responsible for its own attorney's fees and costs incurred as a result of any action or proceeding under this agreement. If either party brings any action or legal proceeding for damages for an alleged breach of any provision of this agreement or to enforce, protect or establish any term, condition or covenant of this agreement or right of either party, the parties agree to bear their own attorneys' fees and costs.

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IN WITNESS THEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATES INSERTED BELOW.

City of Hialeah

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010-0040

Attest:

Marbelys Fatjo
Acting City Clerk

(SEAL)

Authorized signature on behalf of
City of Hialeah

Mayor Carlos Hernandez Date 8/21/13

Approved as to legal sufficiency and form:

William M. Grodnick
City Attorney

Florida National University, Inc.

Florida National University
4425 West 20th Avenue
Hialeah, Florida 33012

Name:
Corporate Secretary

(SEAL)

Maria Regueiro
President

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City of Hialeah
Department of Parks and Recreation
Partnership with Florida National University

The following is a breakdown of the cost for Bucky Dent Gym:

September 30, 2013 - October 31, 2013:

27 total practice days (7:30AM - 10:30AM)
staff hours $810.00
Facility utilities cost
week $500.00

81 total part-time

5 weeks @ $100.00 per

Total monthly cost: [redacted]

November 1, 2013 - November 30, 2013:

9 total practice days (7:30AM - 10:30AM)
staff hours $270.00
2 Home Games Sat. (6:00PM - 11:00PM)
hours $100.00

hours $300.00
Facility utilities cost
week $300.00

27 total part-time

10 total part-time staff

10 total full-time staff

3 weeks @ $100.00 per

Total monthly cost: [redacted]

December 1, 2013 - December 31, 2013:

7 total practice days (11:30AM - 2:30PM Sun.12/1& 7:30AM - 10:30AM)
hours $210.00
2 Home Games Sat. (6:00PM - 11:00PM)
hours $100.00

hours $300.00

21 total part-time

10 total part-time staff

10 total full-time staff

2 Home Games Weekdays (9:30PM - 11:00PM) 3 total part-time staff
hours $30.00

3 total full-time staff

hours $90.00
Facility utilities cost 3 weeks @ $100.00 per
week $300.00

Total monthly cost: [redacted]

January 1, 2014 - January 31, 2014:

20 total practice days (7:30AM - 10:30AM) 60 total part-time
hours $600.00
1 Home Game Sun. (3:00PM - 8:00PM) 5 total part-time
hours $50.00

5 total full-time

hours $150.00
1 Home Game Weekday (9:30PM - 11:00PM) 1.5 total part-time
hours $15.00

1.5 total full-time

hours $45.00
Facility utilities cost 4 weeks @ $100.00 per
week $400.00

Total monthly cost: [redacted]

February 1, 2014 - February 28, 2014:

13 total practice days (7:30AM - 10:30AM) 39 total part-time
hours $390.00
2 Home Games Weekdays (9:30PM - 11:00PM) 3 total part-time staff
hours $30.00

3 total full-time staff

hours $90.00
1 Home Games Sat. (6:00PM - 11:00PM) 5 total part-time staff
hours $50.00

5 total full-time staff

hours $150.00
Facility utilities cost 4 weeks @ $100.00 per
week $400.00

Total monthly cost: [redacted]

Grand Total for Partnership: [redacted]

Florida National University

2013-2014 Men's Basketball schedule

Day	Date	Opponent	Time	Location	Result	Record
November						
Fri	Nov 1st	*Trinity Baptist College Tip-Off Classic Florida College*	TBA	Jacksonville, FL		
Sat	Nov 2nd	*Trinity Baptist College Tip-Off Classic Ave Maria University*	TBA	Jacksonville, FL		
Mon	Nov 4th	Trinity College of Florida	6pm	Tampa, FL		
Fri	Nov 8th	*Puerto Rico Mayaguez Basketball Classic*	TBA	Puerto Rico		
Sat	Nov 9th	*Puerto Rico Mayaguez Basketball Classic*	TBA	Puerto Rico		
Sun	Nov 10th	*Puerto Rico Mayaguez Basketball Classic*	TBA	Puerto Rico		
Wed	Nov 13th	Ave Maria University	7pm	Ave Maria, FL		
Sat	Nov 16th	Webber International University	4pm	Hialeah, FL		
Tue	Nov 19th	Florida Memorial University	7pm	Miami, FL		
Wed	Nov 20th	Warner University	7pm	Lake Wales, FL		
Sat	Nov 23rd	College of Bahamas	7pm	Hialeah, FL		
December						
Tue	Dec 3rd	Southeastern University	TBA	Lakeland, FL		
Sat	Dec 7th	Florida Memorial University	TBA	Hialeah, FL		
Tue	Dec 10th	Ave Maria University	7pm	Hialeah, FL		
Thu	Dec 12th	Webber International University	7pm			
Thurs	Dec 14th	Victory University (TN)	7 pm	Hialeah, FL		
Sat	Dec 17th	Victory University (TN)	2 pm	Hialeah, FL		
Thu	Dec 19th	Marian University (IN)	7pm	Ave Maria, FL		
January						
Sun	Jan 5th	Southern New Hampshire (NCAA D-II)	TBA	Hialeah, FL		
Sun	Jan 19th	Trinity College of Florida	4pm	Hialeah, FL		
Tue	Jan 21st	Devry University	7pm	Hialeah, FL		
Thu	Jan 23rd	Trinity Baptist College	7pm	Jacksonville, FL		
Sat	Jan 25th	Barber Scotia College (NC)	TBA	Concord, NC		
Fri	Jan 31st	Florida College	7pm	Temple Terrace		
February						
Thu	Feb 6th	College of the Bahamas	7pm	Hialeah, FL		
Tue	Feb 11th	Devry University	7pm	TBA		
Sat	Feb 22nd	Trinity Baptist College	4pm	Hialeah, FL		
Tue	Feb 25th	Devry University	TBA	TBA		