

RESOLUTION NO. 2007-265

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A MEMORANDUM OF UNDERSTANDING BETWEEN ST. JOHNS COUNTY, FLORIDA, AND PONTE VEDRA ATHLETIC ASSOCIATION CONCERNING CERTAIN ASPECTS OF AN ATHLETIC FIELDHOUSE AT DAVIS PARK, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING, ON BEHALF OF ST. JOHNS COUNTY.

WHEREAS, both St. Johns County, Florida (County), and Ponte Vedra Athletic Association (PVAA) wish to enter into a Memorandum of Understanding (MOU), in order to address certain aspects of an Athletic Fieldhouse at Davis Park; and

WHEREAS, the attached and incorporated MOU sets forth the relative rights, responsibilities, and obligations of both the County and PVAA, so that certain aspects of the Athletic Fieldhouse may be preliminarily addressed; and

WHEREAS, at the time that a Contract/Agreement is entered into between the County, and PVAA on other aspects related to the Athletic Fieldhouse; and

WHEREAS, it is in the collective best interests of both the County and PVAA, to have this MOU executed by the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of a Memorandum of Understanding between St. Johns County, Florida, and Ponte Vedra Athletic Association, concerning aspects of the Athletic Fieldhouse, and authorizes the County Administrator to execute the Memorandum of Understanding on behalf of St. Johns County.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 18 day of September, 2007.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

Attest:

Dan Halterman
Deputy Clerk

By:

Ben Rich
Ben Rich, Chair

RENDITION DATE 9/21/07

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into between St. Johns County, Florida, (“County”), and the Ponte Vedra Athletic Association (“PVAA”)

WHEREAS, it is recognized that a fieldhouse is needed at **County-owned** and operated Davis Park; and

WHEREAS, the PVAA has indicated that it would be willing to donate \$50,000 (fifty thousand dollars), in order to defray the costs of construction of a fieldhouse at **County-owned** and operated Davis Park; and

WHEREAS, the **Board** has determined that it is in the long-term interests of the **County** to accept the donation from PVAA with the conditions set forth in this **MOU**.

NOW THEREFORE, it is mutually understood by both the **County**, and the PVAA as follows:

1. Effect of Recitals.

The above recitals are incorporated by reference into the body of this **MOU**, and such recitals are adopted as findings of fact.

2. Donation of Funds; Use of Funds; Return of Funds if Not Used.

No later than Sept. 18, 2007, the PVAA shall donate \$50,000.00 (fifty thousand dollars) to the **County**.

The express and designated purpose of the above-noted donated funds, is to assist the **County** in constructing a fieldhouse at Davis Park, which is owned and operated by the **County**.

Should construction of the fieldhouse at Davis Park not be completed prior to January 1, 2009, then the **County** shall return the \$50,000 donation to the PVAA.

Should either the **County** or the PVAA, terminate this **MOU**, as noted elsewhere in this **MOU**, prior to completion of construction of the fieldhouse at Davis Park, then the **County** shall return any unexpended funds to the PVAA within sixty (60) days of termination of this **MOU**.

Should the **County** complete construction of the fieldhouse at Davis Park for less than \$50,000, then the **County** shall return any unexpended funds to the **PVAA** within sixty (60) days of completion of construction of the fieldhouse at Davis Park.

3. Title and Control of Davis Park; Title and Control of the Fieldhouse at Davis Park; Title and Control of Improvements; Preservation of Access to PVAA.

Regardless of the \$50,000 donation by the **PVAA**, title and control of the real property on which Davis Park is located, shall remain with the **County**.

Regardless of the \$50,000 donation by the **PVAA**, title and control of the fieldhouse at Davis Park, shall remain with the **County**.

Regardless of the \$50,000 donation by the **PVAA**, title and control of any improvements to the fieldhouse at Davis Park, shall remain with the **County**.

Notwithstanding anything to the contrary contained in this MOU, the PVAA shall have the right of access to the fieldhouse, for so long as the PVAA provides recreational athletic programs at a level comparable to other athletic associations in the County.

4. Use of Fieldhouse; Use of Equipment and/or Facilities within Fieldhouse.

The **County** retains authority over both scheduling and use of the fieldhouse at Davis Park. Moreover, the **County** retains authority over settling any disputes related to, and/or associated with, use of equipment and/or facilities located within the fieldhouse.

Notwithstanding any other language contained in this Section, the **PVAA** shall have equal and unrestricted access to all rooms, equipment, and facilities located at the fieldhouse at Davis Park. Such equal and unrestricted access shall include, but not be limited to the following: 1) weight room; 2) equipment storage room(s); 3) designated or used team meeting room(s); 4) fitness area(s); and 5) any weight, physical fitness, exercise, weight control equipment, videos, or apparatus.

5. Maintenance of Fieldhouse; Responsibility for Utility Expenses.

It is understood that the **County** shall be responsible for the maintenance of the fieldhouse at Davis Park, along with, any costs, and/or expenses associated with maintenance of the fieldhouse at Davis Park, including, but not limited to, utility expenses.

6. Responsibility for Insurance.

It is understood that the **County** shall be responsible for costs associated with any insurance secured in connection with the fieldhouse at Davis Park.

7. Risk of Loss.

It is specifically understood that the County does not accept and/or assume any responsibility whatsoever for any property of the PVAA that is left within the fieldhouse at Davis Park.

8. Public Purpose.

The **Board** recognizes that by entering into this **MOU** with the **PVAA**, a public purpose is served, and the interests of both the **County**, and the **PVAA**, are served in the following way:

a. the **County** will be able to foster a co-operative spirit with the **PVAA**, so as to enhance the recreational experience available at a **County** park—namely, Davis Park

9. Termination.

This **MOU** may be terminated only in the case of criminal conduct on the part of either the **County**, or the **PVAA**. In such case, as noted elsewhere in this **MOU**, to the extent that there are unexpended funds, such funds shall be returned to the **PVAA** within sixty (60) days of termination of this **MOU**.

10. Severability.

If any word, phrase, sentence, part, subsection, section, or other portion of this **MOU**, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, section, or the proscribed application thereof, shall be severable, and remaining portions of the **MOU**, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.

11. Notices.

To the extent that notices are required under this **MOU** shall be in writing and served upon the **County** shall be registered or certified mail, return receipt requested, addressed to the Director of Parks and Recreation, or designee, _____, St. Augustine, Florida 32080.

To the extent that notices are required under this **MOU** shall be in writing and served upon the **PVAA** shall be registered or certified mail, return receipt requested, addressed to _____, **PVAA**, _____, St. Augustine, Florida 32_____.

DATED THIS _____ day of _____, 2007.

ST. JOHNS COUNTY, FLORIDA

By: _____
County Administrator

ATTEST: CHERYL STRICKLAND

By: _____
Deputy Clerk

PONTE VEDRA ATHLETIC
ASSOCIATION

By: *Pamela Kessler*

WITNESS:

Richard T. Kessler

WITNESS:

Ann Marie