Florida Gulf Coast University Board of Trustees
April 16, 2013

SUBJECT:  Presentation by Private Equity Group, LLC

PROPOSED BOARD ACTION

For Information Only

BACKGROUND INFORMATION

Private Equity Group, LLC will make a presentation concerning a potential donation to Florida Gulf Coast University. Included in the documents is a proposed non-binding Letter of Intent regarding the potential donation. The non-binding Letter of Intent is being provided to the FGCU Board of Trustees due to its significance to the University – and presented as an “Information Only” agenda item since donations to the University are accepted by the Florida Gulf Coast University Foundation, Inc. The Florida Gulf Coast University Foundation, Inc. is a direct support organization of Florida Gulf Coast University and was established to encourage, solicit, collect, receive and administer gifts and bequests of property and funds for the scientific, educational and charitable purposes for the advancement of the University and its objectives.

Supporting Documentation Included:  1) Private Equity Group, LLC (PEG) Cover Letter to FGCU, 2) Letter of Intent, and 3) Conceptual Master Plan Exhibit “A”

Documents Prepared by:  As to 1) PEG; as to 2) PEG and FGCU; and as to 3) PEG

Legal Review by:  Vice President and General Counsel Vee Leonard (April 11, 2013)

Submitted by:  Vice President for Administrative Services and Finance Steve Magiera
PRIVATE EQUITY GROUP, LLC
12800 University Drive, Suite 275
Fort Myers, Florida 33907
239.590.9066 239.590.9065 (fax)

April 11, 2013

Wilson G. Bradshaw, Ph.D.
Office of the President
Florida Gulf Coast University
10501 FGCU Boulevard South
Fort Myers, FL 33965

Re: Letter of Intent (LOI) between Private Equity Group, LLC (PEG) and Florida Gulf Coast University (FGCU)

Dear President Bradshaw:

Enclosed please find a Letter of Intent between Private Equity Group and Florida Gulf Coast University, which is intended to assist FGCU in meeting its future needs for growth and development while establishing a means by which the two parties can cooperate as neighboring property owners. We hope you and the FGCU Board of Trustees can share in the same level of enthusiasm that we at Private Equity Group have in making this offer.

We wish to express our appreciation for your time and consideration over the past six months in sharing ideas on forming a public-private partnership (PPP) between Florida Gulf Coast University and Private Equity Group. The opportunity to create a Master Planned Development that integrates the University as a significant component of the community fulfills one of the original visions for the University and for Lee County. We believe this collective vision will create a truly unique setting few universities can offer by establishing a thriving, vibrant community that will assist in attracting the best students, faculty and staff to Florida Gulf Coast University. We at Private Equity Group welcome this opportunity and extend a formal offer to Florida Gulf Coast University to join us.

Florida Gulf Coast University, in accepting this donation and offer to partner, will create a legacy that will benefit generations to come and make FGCU one of the leading universities in the State. The attributes of such a partnership will:

- Provide 640 acres of land adjacent to the main campus for an orderly expansion of the FGCU campus at no cost to taxpayers. This land will provide the opportunity for the University’s future expansion, both long-term and short-term, and will do so in a location that will allow FGCU to maximize the benefits of a larger campus setting.

- Provide through this project the permanent dedication of more than 1,200 acres of conservation lands, at no cost to taxpayers, through the restoration and reestablishment of the Stewart Cypress Slough and the creation of a three-mile-long wildlife corridor.
• Create a thriving, vibrant community that will attract and keep the best students, faculty and staff. The size and location of the land donated will provide a unique opportunity to create an array of on-campus facilities that will rival or exceed any university in the state.

• Expand the availability of affordable housing options for faculty, staff and students. As the University continues to transition from a commuter school to a resident-oriented campus, the availability of affordable housing becomes increasingly important.

• Enable bike, pedestrian and mass transit access to town center shopping and restaurants from campus. It is becoming clear that the vast majority of the larger, more successful universities in Florida — and for that matter the nation — are increasingly focusing on multi-modal transportation opportunities both on-campus and to and from areas adjacent to the campus. As global climate change becomes a more prominent issue, so do creative solutions to reduce the greenhouse effect. A multi-modal transportation system is one of the solutions that can be tailored to link FGCU and its surrounding area into a single entity easily accessed by students, faculty, staff and visitors alike.

• Assist FGCU in accommodating its anticipated enrollment increase over the next 10 years and beyond. There is a clear need for additional land to expand the current campus area to provide the support services needed to accommodate the growth in students, faculty and staff, while allowing for program expansion.

• Provide through this project alternative entrances and improved transportation connection to FGCU between Alico Road and Corkscrew Road, via the proposed Gulf Coast Drive. Multiple access points will be critical to drive the success of the multi-modal transportation opportunities mentioned previously and will be critical to the long-term success of the University.

• Support the County's goals and objectives in developing a Regional Research Area commonly referred to as the “Research Diamond.” As the County moves through the planning and implementation process with the Research Diamond, we believe that the University will play a critical role in the implementation of the Diamond as a driving force in re-energizing the economy in Southwest Florida. With the assistance of PEG and through the addition of land to expand the current campus, a university village and construction of additional classroom facilities, FGCU will continue to play a major role in both the educational and economic well-being of Southwest Florida.

• Create synergy between the I-Hub facility and the main campus.

• Provide opportunity for students in engineering, environmental, hospitality and economics programs to participate in the design and construction of a master-planned University community.

• Resolve the challenge of FGCU’s lack of proximate conference center space for University program enhancement and expansion through PEG’s development of a Hotel/Conference Center as planned within the University Village.
• Provide for the establishment of a permanent Endowment Fund for FGCU through a resale capital contribution fee on all residential units sold in perpetuity (with the exception of student housing units).

• And perhaps most importantly of all, this partnership has the potential to further expand the original vision of the University with a University Village, a community element and the related support services that provide for the needs of the University, essentially integrating the community as a component of the University.

Dr. Bradshaw, Private Equity Group appreciates the opportunity to submit this Letter of Intent. At your earliest convenience, we would appreciate confirmation that this offer is acceptable for presentation to the FGCU Board of Trustees at its April 16, 2013 meeting.

Sincerely,

PRIVATE EQUITY GROUP, LLC

OJ Douglas
Chief Executive Officer

cc: FGCU President’s Cabinet
Re: The purpose of this Letter of Intent (LOI) is an attempt by Private Equity Group, LLC (PEG) to assist Florida Gulf Coast University (FGCU) in its future growth needs and to outline a means by which the two parties can cooperate with each other as neighboring property owners.

LETTER OF INTENT

On behalf of Private Equity Group, we formally extend the following Letter of Intent to Florida Gulf Coast University:

- PEG will fulfill the Donation Agreement dated June 6, 2011 by and between Alico-Agri, LTD and Florida Gulf Coast University Foundation, Inc., by dedicating 40 acres on the property referred to as Alico West to FGCU, on or before September 30, 2013 (See attached Exhibit "A" for reference: Parcel A).

  The construction of Gulf Coast Drive as depicted on Exhibit “A” will commence upon initiation of vertical development of any portion of lands lying immediately adjacent to Gulf Coast Drive within Alico West or FGCU’s 40 acres. The location of said road will be consistent with PEG's final development plan. The construction of the road will be completed within 12 months of its commencement.

- PEG to donate 500 acres on the property referred to as Alico East (NW Corner/Lake) to FGCU. (See attached Exhibit "A" for reference: Parcel B). Dedication of the 500 acres will occur upon completion of either the development entitlement process or by December 31, 2018, whichever occurs first.

  PEG will reclaim the mining area within Parcel B, including installation of littoral zones, if required, simultaneous with either the commencement of vertical development of the remaining PEG lands on Alico East or commencement of vertical development of Parcel B by FGCU, whichever occurs first.

  PEG will retain a 150 foot right-of-way through the 500 acres which will serve as a spine road to provide access to FGCU and PEG's remaining property. The right-of-way shall be located per PEG’s final development plan (See attached Exhibit "A" for reference: Parcel C).

  PEG will construct, at PEG's cost the road and appropriate utilities built to County standards from Alico Road through the 500 acre donation site to PEG's remaining land. The road shall be a pedestrian friendly, multi-modal facility as required by Lee County. The road and utilities will be constructed simultaneous with one of two milestones: 1)FGCU's commencement of vertical development in Parcel B or, 2) commencement of vertical development by PEG in support of the residential community south of Parcel B, whichever occurs first. The construction of the road and utilities will be completed within 12 months of their commencement.

  Maintenance of said road will be the responsibility of PEG or the Property Owners Association formed in connection with the development of the Alico East property. PEG agrees that FGCU will not be required to participate as a member of the Property Owners Association or to share in the maintenance costs of the road or right-of-way. PEG and the
Foundation will jointly share use of the lake that lies within the 500 acres. Simultaneous with the conveyance of Parcel B, the parties will enter into a Shared Lake Use Agreement.

- PEG to donate an additional 100 acres on the property referred to as Alico East (Southwestern corner) to FGCU. (See attached Exhibit "A" for reference: Parcel D). Dedication of the 100 acres will occur either upon completion of the development entitlement process or by December 31, 2018, whichever occurs first.

PEG will construct, at PEG's cost, a 2 lane road and appropriate utilities, built to County standards, from Corkscrew Road to Gulf Coast Drive, for the purpose of providing access and utilities to Parcel D and to any lands owned by PEG (see attached Exhibit "A"). The location of said road will be consistent with PEG's final development plan. The road shall be a pedestrian friendly, multi-modal facility to the extent permitted by Lee County. The road and utilities will be constructed simultaneous with one of two milestones: 1) FGCU's commencement of vertical development in Parcel D, or 2) commencement of vertical development by PEG of either the residential or commercial lands adjacent to said road, whichever occurs first. The construction of the road and utilities will be completed within 12 months of their commencement.

- PEG to establish a University Village Endowment Fund through a re-sale capital contribution fee on all residential units sold, except Student Housing, in Alico West and Alico East. The re-sale capital contribution fee will be one-half percent (½%) of the sales price and shall not be due upon the initial sale of a residential unit, but shall be due on subsequent re-sales, in perpetuity of all residential units. All re-sale capital contribution fees shall be used for infrastructure, buildings and related improvements and programming within the 640 acres of land donated by PEG for 15 years from the date of the establishment of such fund or until completion of vertical development of the 640 acres, whichever occurs first. The Endowment Fund will be established within 120 days of the date of the conveyance of the 500 acre and 100 acre sites referenced above from PEG to FGCU and PEG will donate $10,000 to establish the Fund. Thereafter the University Endowment Fund may be utilized at the discretion of FGCU.

- FGCU shall permit PEG to designate its Hotel/Conference Center as an affiliated facility. FGCU will identify PEG’s hotel and conference center on its website as an affiliated facility offering overnight and conference/banquet services. Moreover, any mention of PEG’s (or successor) hotel and conference center by FGCU will include the following or comparable language: “All hotel and conference centers identified on this site are privately owned and are independent of, and not owned or managed by, Florida Gulf Coast University.” Additionally, any advertising or representations by PEG (or successor) in marketing its hotel and conference center will also include a disclaimer indicating that it is privately owned and neither FGCU nor any of its direct support organizations have an ownership or management interest. Moreover, PEG (or successor) agrees to indemnify and hold harmless FGCU and any of its direct support organizations, for the cost of defending litigation brought by an agency or a private party, as well as damages, inclusive of attorney’s fees and costs, arising out of this hotel and conference center affiliation. Further, the terms and conditions of the
affiliation between FGCU and PEG (or its successor), for hotel and conference center purposes only, will be outlined in the formal Donation Agreement. For FGCU events conducted within a 5 mile radius, FGCU shall utilize the Hotel and Conference Center as planned to be constructed within the Alico West University Village when cost effective to do so, as it relates to rooms and conference space, as compared to any other hotel and conference center within a 5 mile radius.

- PEG extends use of the golf course, if constructed within PEG’s development, to FGCU’s Varsity Division I golf teams and coaches and up to a maximum of 20 FGCU students and/or instructors per semester that are enrolled in or are instructors in the FGCU Golf Management Program. A mutually agreed upon Golf Course Use Agreement will be executed by the parties within 120 days of the issuance of the golf course local development order by Lee County.

The following special conditions are considered to be an integral part of the offering:

- PEG intends to develop the Alico West and Alico East properties in the manner that is substantially consistent with the attached Exhibit "A".

- FGCU cannot sell or otherwise dispose of the 640 acres, or any portion thereof, donated by PEG for a minimum of 5 years from the date that the land is conveyed from PEG to FGCU. PEG will be offered First Right of Refusal on any sale of land conveyed by PEG to FGCU.

- FGCU will include the 640 acres donated by PEG into the University’s Campus Master Plan (CMP) during the next statutorily required revision to the CMP.

- FGCU agrees to both publicly and privately support, via appearances, statements, correspondence and emails from the offices of the President or the Vice President for Administrative Services and Finance, PEG’s comprehensive plan amendment, DRI, related zoning requests, as well as the environmental and water management permits and local development orders for Alico West and Alico East. This support is based on the proviso that the development entitlement requests remain substantially consistent with that plan depicted on Exhibit "A". It is further understood and agreed that for FGCU to support the proposed development with Alico West and Alico East that the development must qualify as Associated Support Development as that term is defined in the Lee Plan Glossary. In addition, the parties herein agree that for purposes of this LOI, Associated Support Development includes, but is not limited to the following:

  A. golf course(s);
  B. student housing;
  C. multi-family and single family housing, some of which may serve faculty, staff and administration of FGCU.
  D. the establishment of a University Endowment Fund as described above;
E. the donation of 640 acres of land to FGCU by PEG;

F. the provision of moderate income housing;

G. commercial office and commercial retail development; and

H. other recreational amenities.

FGCU, through the offices of the President or the Vice President for Administrative Services and Finance, agrees to participate, when requested by PEG and when available, in meetings and hearings with Lee County, the Southwest Florida Regional Planning Council, various environmental agencies and environmental groups. While the parties understand and agree that PEG will be the lead entity during the development entitlement request process, FGCU agrees to take an active role in the process to the extent requested by PEG. This condition is not intended to be an exclusive commitment, as PEG recognizes FGCU may make similar commitments to other parties.

- All expenses and documents related to the transfer of property donated by PEG to FGCU or to the FGCU Foundation will be handled as follows:

A. PEG will pay for and provide:

1. statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA, in a form sufficient to allow "gap" coverage by title insurance;

2. utility services up to and including the date of closing, which are attributable to the property;

3. taxes and assessments, prorated to the day of closing;

4. payment of partial release or satisfaction of mortgage fees, if any;

5. PEG's attorney fees, if any;

6. survey;

7. 50% of the cost of Phase 1 environmental audit;

8. wetlands delineation and species survey; and

9. title search, title insurance premium and title agent's settlement fee.

B. FGCU and/or Foundation will pay for and provide:

1. documentary stamp tax on the deed;

2. recording fee for the deed;

3. the cost of the appraisal to be obtained by FGCU and/or the Foundation;

4. 50% of the cost of Phase 1 environmental audit; and
5. FGCU and/or the Foundation's attorney's fees, if any.

- FGCU and PEG agree that Woody Hansen will be the appraiser retained by FGCU to prepare the appraisal regarding the property to be donated by PEG to FGCU.

- Real Estate taxes, personal property taxes (if applicable) and special assessments (if applicable) will be prorated as of the date of closing.

- PEG and FGCU represent to the other that they have not dealt with any real estate broker in connection with this LOI or the subject matter hereof, and PEG and FGCU each agree to indemnify and hold the other harmless against any claims by a real estate broker claiming by, through or under such indemnifying party. In addition, PEG and FGCU agree that Section 768.28, Florida Statutes, will serve to limit FGCU's liability under this provision.

- PEG will designate Student Housing Areas delineated on Exhibit "A" that will consist of private student housing, multi-family housing and commercial development at the discretion of PEG.

- PEG will include donations of property and requirements for road improvements and mine reclamation within the Lee Plan as part of a comprehensive plan amendment.

- In conjunction with the road and utility installation to FGCU's Parcels A, B and D, PEG will provide a public utility easement for the installation of Fiber Optic cables by the appropriate utility provider.

- PEG contemplates the potential development of student housing complexes on its property. To that end PEG represents that should it, or a successor, develop housing available to students on its property, such housing will have and maintain a level of quality, cleanliness, security and safety consistent with FGCU's campus housing standards. As long as the aforementioned level is maintained, FGCU will identify PEG's student housing on its website as an affiliated facility offering off-campus housing. Moreover, any mention by FGCU of PEG (or successor) housing will include the following or comparable language: “All housing identified on this site is privately owned and is independent of, and not owned or managed by, Florida Gulf Coast University.” Additionally, any advertising or representations by PEG (or successor) in marketing its housing will also include a disclaimer indicating that it is privately owned and neither FGCU nor any of its direct support organizations have an ownership or management interest. In exchange for being an affiliated student housing provider, PEG agrees to indemnify and hold harmless FGCU for the cost of defending litigation brought by an agency or a private party, as well as damages, inclusive of attorney's fees and costs, arising out of this housing affiliation. In order to be an affiliated facility any and all off campus housing must meet the standards delineated above. Further, the terms and conditions of the affiliation between FGCU and PEG (or its successor), for housing purposes only, will be outlined in the formal Donation Agreement.
FGCU agrees not to construct or allow to be constructed any student housing on lands donated from PEG to FGCU for 30 years following the conveyance of the 640 acres. Further, PEG and FGCU agree that this restriction will run with the land and be binding on any subsequent owner.

PEG will develop a minimum of 120 residential dwelling units in Alico West and/or Alico East, excluding Student Housing, which will qualify as moderate income homes, as that term is defined by Lee County.

FGCU authorizes PEG to use the Florida Gulf Coast University name or official logos in connection with Alico West or Alico East without the express written consent of FGCU, provided such use meets the standards outlined in the University’s Visual Identity Guidelines. More particularly, the use of the name “Florida Gulf Coast University” or “FGCU” may be used by PEG in all meetings, hearings, discussions, and communications with governmental officials or staff, environmental groups or private homeowners groups and/or planning panels so long as the use of the name is related to PEG’s comprehensive plan amendment, DRI, related zoning requests, as well as the environmental and water management permits and local development orders for Alico West and Alico East. This permitted use is based on an understanding between the parties that the University’s name will only be associated with the aforementioned development entitlement (i.e. comprehensive plan amendment, DRI, related zoning requests, environmental and water management permits, and local development orders for Alico West and Alico East) requests that are substantially consistent with discussions between the parties occurring prior to the aforementioned uses. Use of the University’s name and logo shall imply compliance with the University’s Visual Identity Guidelines. This permission for use of the University’s name is not transferable to any successor entity. Moreover, PEG represents that any such uses will properly reflect FGCU’s ownership interests at the time of any PEG submissions. Any other use of the official logos by PEG must receive prior written consent. Requests for consent to use the University’s official logo for other purposes will be submitted to the Assistant Vice President for Community Relations and Marketing, which consent will not be unreasonably withheld.

PEG agrees to indemnify and hold harmless FGCU for the cost of defending litigation brought by a third party, as well as damages that may be awarded to said third party, inclusive of attorney’s fees and costs, arising out of approvals of comprehensive plan amendments, DRI approvals, or related rezonings for Alico West and Alico East.

All rights, benefits and obligations conferred by this LOI shall extend to PEG and its subsidiaries in which PEG has a controlling interest.

This Letter of Intent is not and shall not be construed as an offer, acceptance of offer, or a contract, nor shall it otherwise create a binding or legally enforceable contractual relationship between FGCU and PEG. Neither party shall have any rights nor obligations as to the other of any nature whatsoever unless and until a formal Agreement is finalized and executed by FGCU and PEG.
On behalf of Florida Gulf Coast University, this Letter of Intent is acceptable and I authorize the drafting of a formal agreement based on these terms.

Florida Gulf Coast University
Board of Trustees

____________________________________
Wilson G. Bradshaw, Ph.D.
President

____________________________________

Date