

EIGHTH AMENDMENT TO

AGREEMENT

Between

BROWARD COUNTY

and

NOVA SOUTHEASTERN UNIVERSITY, INC.

for

DESIGN, CONSTRUCTION, AND OPERATION OF A JOINT-USE  
LIBRARY AND PARKING GARAGE

EIGHTH AMENDMENT TO  
AGREEMENT

Between

BROWARD COUNTY

and

NOVA SOUTHEASTERN UNIVERSITY, INC.

for

DESIGN, CONSTRUCTION, AND OPERATION OF A JOINT-USE  
LIBRARY AND PARKING GARAGE

This is an Eighth Amendment to Agreement ("Eighth Amendment"), made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY," and NOVA SOUTHEASTERN UNIVERSITY, INC., a Florida not-for-profit corporation, hereinafter referred to as "UNIVERSITY," collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, the Parties entered into an agreement ("Agreement") on December 14, 1999, for the design, construction, and operation of a joint-use library, research and technology center ("Center") and parking garage; and

WHEREAS, the Parties entered into a First Amendment to Agreement dated October 2, 2007, temporarily modifying their rights and obligations under the Agreement without permanent loss or surrender of any future rights or obligations by either party; and

WHEREAS, the Parties entered into a Second Amendment to Agreement dated November 13, 2008, reducing the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement for the period October 1, 2008 through September 30, 2009; and

WHEREAS, the Parties entered into a Third Amendment to Agreement dated August 25, 2009, reflecting UNIVERSITY's assumption of COUNTY's payment obligations for the Parking Garage as provided in Section 7 of the Agreement, and modifying the allocation of parking spaces as provided in Section 14 of the Agreement; and

WHEREAS, the Parties entered into a Fourth Amendment to Agreement dated October 27, 2009, reducing the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement, for the period October 1, 2009 through September 30, 2010, and deferring payments relating to the fifth floor build-out of the Center; and

WHEREAS, the Parties entered into a Fifth Amendment to Agreement dated May 24, 2011, reducing the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement, for COUNTY's fiscal year commencing October 1, 2010 and ending September 30, 2011; and

WHEREAS, the Parties entered into a Sixth Amendment to Agreement dated December 8, 2011, reducing the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement, for COUNTY's fiscal year commencing October 1, 2011 and ending September 30, 2012; and

WHEREAS, the Parties entered into a Seventh Amendment to Agreement dated February 5, 2013, reducing the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement, for COUNTY's fiscal year commencing October 1, 2012 and ending September 30, 2013; and

WHEREAS, the Parties' respective staff met on December 13, 2013, and January 10, 2014, to negotiate an amendment to COUNTY's funding obligations for COUNTY's fiscal year commencing October 1, 2013 and ending September 30, 2014, and this Eighth Amendment is a result of such negotiations; and

WHEREAS, the Parties desire to enter into this Eighth Amendment to reduce the payments to be made by COUNTY to UNIVERSITY pursuant to Sections 9 and 11 of the Agreement, for COUNTY's fiscal year commencing October 1, 2013 and ending September 30, 2014; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments set forth herein, the Parties agree as follows:

1. RECITALS. The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.
2. MODIFICATION OF COUNTY'S PAYMENT OBLIGATIONS. COUNTY's payment obligations delineated in Sections 9 and 11 of the Agreement, for COUNTY's fiscal year commencing October 1, 2013 and ending September 30, 2014, shall be reduced as set forth herein. Recognizing COUNTY's budgetary restrictions, UNIVERSITY has agreed to the reduction in COUNTY's payment obligations as an accommodation to COUNTY solely for COUNTY's fiscal year commencing October 1, 2013 and ending September 30, 2014.

3. COUNTY'S PAYMENT OBLIGATIONS FOR MATERIALS. For the period from October 1, 2013 through September 30, 2014, COUNTY will pay to UNIVERSITY for Materials (defined in Section 9 of the Agreement), Seven Hundred Eighty-three Thousand Eight Hundred Five Dollars (\$783,805.00).
4. COUNTY'S PAYMENT OBLIGATIONS FOR OPERATING EXPENSES. For the period from October 1, 2013 through June 30, 2014, COUNTY will pay to UNIVERSITY for operating expenses (defined in Section 11 of the Agreement), Three Hundred Nine Thousand Two Hundred Sixty-four Dollars (\$309,264.00) per month. For the period from July 1, 2014 through September 30, 2014, COUNTY will pay to UNIVERSITY Three Hundred Eighteen Thousand Five Hundred Forty-two Dollars (\$318,542.00) per month.
5. COUNTY'S TOTAL MATERIALS AND OPERATING EXPENSE PAYMENTS. For the period from October 1, 2013 through September 30, 2014, COUNTY's total payments for Materials and Operating Expenses will be Four Million Five Hundred Twenty-two Thousand Eight Hundred Seven Dollars (\$4,522,807.00) as shown on EXHIBIT "A," BROWARD COUNTY LIBRARIES DIVISION FY 14 NSU BUDGET SCHEDULE, attached hereto and made a part hereof.
6. SEVERABILITY. If any provision of this Eighth Amendment, or the application thereof to any person or circumstance, shall be found to be invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Eighth Amendment, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each unaffected provision of this Eighth Amendment shall be valid and enforceable to the fullest extent permitted by law.
7. INTERPRETATION AND JOINT PREPARATION. Should any of the provisions of this Eighth Amendment require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms of any such provision shall be more strictly construed against the party who itself or through its agents prepared the same. The Parties acknowledge that the agents and attorneys for each party have participated in the preparation of the provisions of this Eighth Amendment and that all terms have been negotiated by the Parties.
8. RATIFICATION. Except as provided for in this Eighth Amendment, the terms and conditions set forth in the Agreement, as previously amended and not inconsistent herewith, shall remain in force and effect.
9. EFFECTIVE DATE. This Eighth Amendment shall be deemed effective retroactive to October 1, 2013.
10. MULTIPLE ORIGINALS. This Eighth Amendment may be fully executed in multiple copies by the Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Eighth Amendment on the respective dates under each signature: NOVA SOUTHEASTERN UNIVERSITY, INC., signing by and through its President, duly authorized to execute same, and BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

UNIVERSITY

WITNESSES:

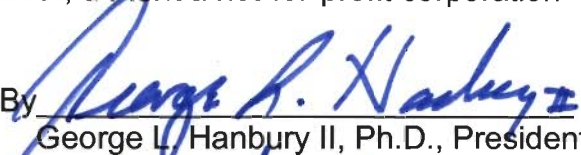
  
\_\_\_\_\_  
Signature

SHIRLEY NAISSOO  
\_\_\_\_\_  
Print Name

  
\_\_\_\_\_  
Signature

NICOLA DEHART  
\_\_\_\_\_  
Print Name

NOVA SOUTHEASTERN UNIVERSITY,  
INC., a Florida not-for-profit corporation

By   
\_\_\_\_\_  
George L. Hanbury II, Ph.D., President

10<sup>th</sup> day of April, 2014

EIGHTH AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND  
NOVA SOUTHEASTERN UNIVERSITY, INC., FOR DESIGN, CONSTRUCTION, AND  
OPERATION OF A JOINT-USE LIBRARY AND PARKING GARAGE

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners

By \_\_\_\_\_  
Mayor

\_\_\_\_ day of \_\_\_\_\_, 2014

Insurance requirements  
approved by Broward County  
Risk Management Division

Approved as to form by  
Joni Armstrong Coffey  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By \_\_\_\_\_ 4/21/14  
Signature (Date)

Risk Management Division

\_\_\_\_\_  
Jacqueline A. Binns  
Print Name and Title above  
Risk Insurance and

Contracts Manager

By \_\_\_\_\_ 4/21/14  
Patrice M. Eichen (Date)

Assistant County Attorney

\_\_\_\_\_  
Angela J. Wallace (Date)  
Deputy County Attorney

PME:hb  
NSU 8th Amendment  
03/24/14  
#14-113

**EXHIBIT "A"**

**BROWARD COUNTY LIBRARIES DIVISION**  
**FY 14 NSU BUDGET SCHEDULE**

Month	NSU Agreement Fiscal Year	50% Usage Payment to NSU	Payment reduction	Adjusted Usage Pmt to NSU (Brwd Cty FY14 limited to 2% increase over FY'13 payment)
October 2013 (County FY14)	FY14	384,772	(75,508)	309,264
November-13	FY14	384,772	(75,508)	309,264
December-13	FY14	384,772	(75,508)	309,264
January-14	FY14	384,772	(75,508)	309,264
January 2014 - Books/Mat'ls	FY14	1,152,927	(369,122)	783,805
February-14	FY14	384,772	(75,508)	309,264
March-14	FY14	384,772	(75,508)	309,264
April-14	FY14	384,772	(75,508)	309,264
May-14	FY14	384,772	(75,508)	309,264
June-14	FY14	384,772	(75,508)	309,264
July 2014 (NSU FY15-3% inc)	FY15	396,315	(77,773)	318,542
Aug-14	FY15	396,315	(77,773)	318,542
Sep-14	FY15	396,315	(77,773)	318,542
Operating Payment		4,651,893	(912,891)	3,739,002
Books/Materials		1,152,927	(369,122)	783,805
Total BCL Payment		5,804,820	(1,282,013)	4,522,807