



EXECUTIVE SUMMARY

Recommendation that the Broward College District Board of Trustees authorize the memorandum of understanding with the Florida Atlantic University Board of Trustees to share costs associated with the integration of University College Library services on A. Hugh Adams Central Campus. Fiscal Impact: Estimated \$1,522,827.75.

Presenter(s): Donald Astrab, VP, Academic Operations, Analytics, & Comm

What is the purpose of this contract and why is it needed? Request that the Broward College Board of Trustees authorize the renewal of the Memorandum of Understanding with Florida Atlantic University for continued cost sharing of the University College Library for the 2024-2025 academic and fiscal year. Financial responsibility for the budget shall be divided between the COLLEGE \$1,522,827.75 (61.86%) and FAU \$939,077.11 (38.14%) for the 2024 to 2025 year. Library services provide critical instructional support materials via a comprehensive catalog collection, both analog and digital, research training and support for faculty and students, and a wide array of related services.

What procurement process or bid waiver was used and why? No procurement process. The current memorandum of understanding expires June 30, 2024.

Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?
Yes.

What fund, cost center and line item(s) were used? CC0191 Library Operations, Fund 100.

Has Broward College used this vendor before for these products or services? Yes.

Was the product or service acceptable in the past? This partnership has been acceptable.

Was there a return on investment anticipated when entering this contract? Library services are an essential part of the higher education experience and are deemed critical to student success across all academic programs.

Was that return on investment not met, met, or exceeded and how? Broward College students, Florida Atlantic University Broward Campus students, and patrons (faculty and staff) nationwide have access to the resources and services because of this partnership.

Does this directly or indirectly feed one of the Social Enterprise tactics and how? The Broward College and Florida Atlantic University library services partnership at the A. Hugh Adams Central Campus provides resources and services that assist student success by making it easier for students to access unique resources and local institutional archives to complete related assignments and research which supports the Broward College's Social Enterprise Plan, specifically to overcome the digital divide under guaranteed access to higher education and customize learning experiences through multiple modalities under empower student development.

Did the vendor amend Broward College's legal terms and conditions [to be answered by the Legal Office] if the College's standard contract was used and was this acceptable to the Legal Office?

The General Counsel's office has reviewed the agreement and any deviation to the College's standard terms has been deemed acceptable.

FISCAL IMPACT:

Description: Financial responsibility for the budget shall be divided between the COLLEGE estimated \$1,522,827.75 (61.86%) from CC0191 and FAU \$939,077.11 (38.14%) for the 2024 to 2025 year.


05/28/24**CC0191 · Library Operations****(\$1,522,827.75)**




Jeffrey Nasse










Jeffrey Nasse, Provost and SVP of Academic Affairs

4/30/2024

APPROVAL PATH: 12143: Library Services BC-FAU Memorandum of Understanding FY2024-2025


Workflow

 Synchronize Routing
  Edit View
  Add Work Item

Stage	Reviewer	Description	Due Date	Status	
1	Stephanie Etter	Vice Provost Review		✓ Completed	
2	Jeffrey Nasse	Provost and SVP of Academic Affair		✓ Completed	
3	Natalia Triana-Aristizabal	Contracts Coordinator		✓ Completed	
4	Zaida Riollano	Procurement Approval		✓ Completed	
5	Rabia Azhar	CFO Review		✓ Completed	
5	Christine Sims	Budget Departmental Review		✓ Completed	
5	Legal Services Review Group	Review and Approval for Form and		✓ Completed	
6	Board Clerk	Agenda Preparation		✓ Completed	
7	District Board of Trustees	Meeting	06/25/24 01:00 PM	⌚ Pending	
8	Electronic Signature(s)	Signatures obtained via DocuSig 		⌚ Pending	
9	Natalia Triana-Aristizabal	Contracts Coordinator		⌚ Pending	

AGREEMENT FOR INTEGRATED UNIVERSITY COLLEGE LIBRARY SERVICES

This Agreement for Integrated University College Library Services ("Agreement") is entered into as of July 1, 2024, between the Florida Atlantic University Board of Trustees, a public body corporate of the State of Florida ("FAU" or "University") and the District Board of Trustees of Broward College ("COLLEGE"), a public body corporate and political subdivision of the State of Florida.

WHEREAS, the academic programs located in the town of Davie, Florida (Broward County) by the COLLEGE and FAU necessitate the maintenance of library and information services adequate to meet the needs of the academic programs of both institutions and;

WHEREAS, both parties support the maintenance of an integrated library, known as the University College Library (UCL) merged under one COLLEGE library administration, as more specifically stated in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants as set forth herein, the parties agree as follows:

I. The foregoing recitals are incorporated in this AGREEMENT by this reference and are deemed by the parties to be true and correct.

II. The parties agree as follows:

- A. The COLLEGE shall employ all library personnel and act as the sole administrative agency of the COLLEGE employees.
- B. The COLLEGE shall provide full library services to support the FAU academic programs, faculty, students, and classrooms within the boundaries of the campus located in the town of Davie.
- C. Broward College and FAU will form a Governance/Policy Advisory Committee (GPAC).
 - 1) The GPAC will have six (6) voting members as follows: FAU Provost, or designee; FAU Dean of Libraries, or designee; Broward College Provost, or designee; Broward College Dean of Libraries and Academic Success Centers, or designee; one (1) faculty representative elected by the Library Advisory Committee from FAU; and one (1) faculty representative elected by the Library Advisory Committee from Broward College.
 - 2) The GPAC shall consider governance, operations, budget, and policy matters for the UCL on a scheduled basis. Such considerations shall include without limitations the following, all in a transparent and timely manner: (i) review

of the UCL budget (i.e., quarterly reports) and how the distribution of revenue contributions from each institution are used in all areas of the library operations including funds used to support the salaries and benefits of UCL employees and the separate acquisitions made to support the students of each institution; (ii) the hiring process of UCL personnel, and the use of unspent salary monies; (iii) the processes related to the collection of overdue and lost fines (i.e., notification of fines, collection of fines, and consequences to students and faculty for non-payment); (iv) space allocations in the UCL to ensure that students of both institutions are appropriately served; and (v) branding efforts that reflect the commitment of both institutions to serving their respective student populations. This shared governance approach will entail holding an initial annual budget planning meeting for the following year starting in November of the prior academic year. Enrollment trends and projected budgets will be addressed, with GPAC leaders submitting a proposed initial annual budget of the UCL to the senior administration of each institution for their respective approvals in February of the prior budget year. Consensus of the final proposed budget and a detailed schedule of operations and services must be reached and submitted to respective institutions no later than March 31st.

- 3) The GPAC will also submit any items that extend beyond routine operations or policies to the senior administration of each institution for their consideration and/or approval. The GPAC will additionally ensure appropriate representation on all UCL Committees. The Broward College Dean, Libraries and Academic Success Centers, will be responsible for oversight of the day-to-day operations of the library and implementation of the approved UCL budget and shall report directly to the Broward College Provost, or designee.

- D. The Library Advisory Committee (LAC) is an advisory committee to the Broward College Dean, Libraries and Academic Success Centers, and will be concerned with the overall service aspects of the UCL, as well as advise on collection development. The Committee will consist of eleven (11) members as follows: From FAU four (4) faculty (one of whom will be from the FAU Faculty Advisory Board); and at least one (1) student; and from the COLLEGE four (4) faculty; at least one (1) student; and one (1) library staff member.

Terms for the LAC will be as follows: The LAC will elect a chair, who will serve a three-year term to provide knowledge and continuity when the LAC members switch out; Broward College and FAU faculty reps also serving on the GPAC will serve a two-year term with the option to continue for a third year; LAC faculty and staff members will serve a two-year term; LAC student members will serve a one-year term.

The Broward College Dean, Libraries and Academic Success Centers will serve as executive secretary to the committee and shall not be a member of the committee.

If a Broward College or FAU faculty committee member goes on sabbatical during their LAC term, the Provost or designee for the appropriate institution will review the need for an appointment of another faculty member to the LAC during that timeframe. When the faculty member returns from sabbatical, they will be reinstated to the committee if their term has not yet ended.

Committee meeting attendance is strongly encouraged. If a committee member is unable to attend a meeting in person, arrangements will be made to create flexibility for attendance.

- E. The approved UCL budget shall combine FAU and COLLEGE funds to establish a single budget for all UCL staff, resources, and services. The pooled funds will be held and disbursed by the COLLEGE for approved UCL expenditures only. Financial responsibility for the budget shall be divided between the COLLEGE (61.86%) and FAU (38.14%). For the fiscal year 2024-2025, the total UCL budget shall be **\$2,461,904.86**. FAU's 38.14% share shall be **\$939,077.11**, payable in quarterly installments. COLLEGE's share shall be **\$1,522,827.75**. Adjustment to this annual budget as events merit are upon the mutual written agreement of both institutions.
- F. It is understood that the foregoing items related to financing the library represent a basic (or minimum) effort. It is to the benefit of each institution to build upon this base so that the UCL will develop and optimally fulfill its mission. To this end, any special government or private sector library allocations or grants that either institution obtains for the benefit of the library should be contributed over and above the general budgeted funds.
- G. The COLLEGE shall begin performance under the terms of this Agreement no earlier than July 1, 2024, and this Agreement shall expire on or about June 30, 2025, or as soon thereafter as the parties execute a new Agreement.
- H. Both parties shall meet on or before November to work toward a budget and agreement for the following year.

III. Invoicing for this Agreement shall be quarterly by the COLLEGE to the University.

- A. In the event the University owes payment to the COLLEGE, the University shall initiate the COLLEGE's payment via electronic funds transfer within forty (40) days after receipt of an invoice, and receipt, inspection and acceptance of the goods or services. Failure to mail the warrant within 40 days shall result in the University paying interest at a rate prescribed by law.

- B. When necessary partial payment or the full amount of the value of service received and accepted may be requested by the submission of a properly executed invoice, with supporting documents.
- C. The COLLEGE agrees that bills and invoices for fees or other compensation for services or expenses shall cite the Agreement number and shall be submitted to the Controller in detail sufficient for a proper pre-audit and post-audit. Each bill or invoice must clearly identify the services, portion of services and expenses for which compensation is sought. Payment will be tendered only for services, or the portion of services, completed prior to the submission of the bill or invoice, or for expenses incurred prior to the submission.
- D. The performance of the University of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds appropriated by the Legislature of the State of Florida, the obligation of funds by the prime funding agency, or otherwise lawfully expendable for the purposes of this Agreement for the current and future periods. The University shall give notice to the COLLEGE of the non-availability of such funds when University has knowledge of such fact and shall terminate all use and access to COLLEGE facilities affected by such non-availability of funds. Upon receipt of such notice by the COLLEGE and termination of all use and access to COLLEGE facilities affected, the COLLEGE shall be entitled to payment only for those services performed and expenses incurred prior to the date notice is received and termination of use completed. All rollover funds shall be used for library-determined purposes only.

IV. To the extent provided under Section 768.28 of the Florida Statutes, each party assumes any and all risks of personal injury and property damage, deprivation, or infringement (including, but not limited to, intellectual property) attributable to the negligent acts or omissions of the respective party and its officers, employees, servants, and agents while acting within the scope of their employment by the respective party. Nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its officers, employees, servants, agents, agencies, or public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in section 768.28 of the Florida Statutes.

V. The COLLEGE and University agree to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by either party in conjunction with this Agreement. Refusal by either party to allow such public access shall be grounds for cancellation of this Agreement. COLLEGE further agrees to: (i) keep and maintain public records required by the University to perform the service, (ii) upon request from the University's custodian of public records, provide the University with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a

cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law, (iii) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the COLLEGE does not transfer the records to the University, and (iv) upon completion of the Agreement, transfer, at no cost, to the University all public records in possession of the COLLEGE or keep and maintain public records required by the public agency to perform the service. If the COLLEGE transfers all public records to the University upon completion of the Agreement, the COLLEGE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the COLLEGE keeps and maintains public records upon completion of the Agreement, the COLLEGE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the University, upon request from the University's custodian of public records, in a format that is compatible with the information technology systems of the University.

IF THE COLLEGE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 561.297.2452, publicrecords@fau.edu, Division of Public Affairs, Florida Atlantic University, 777 Glades Road, ADM, Boca Raton, FL 33431.

IF THE UNIVERSITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954.201.7410, legalservices@broward.edu. Office of the General Counsel, Broward College, 111 E. Las Olas Blvd., Suite 33-522, Ft. Lauderdale, FL 33301.

VI. This Agreement shall be subject to cancellation by either party upon thirty (30) days written notice to the other party. A cancellation penalty may not be charged by either party. However, the University shall be liable only for payment for services rendered, allowable expenses incurred or both, prior to the effective date of termination within the limits of the description provided in this Agreement.

VII. Any renewals, amendments, alterations, or modifications to the Agreement must be signed or initialed and approved by the signatories to this Agreement. If a new agreement has not been entered into upon the expiration of this Agreement and University continues to accept the continuation of services provided hereunder from COLLEGE, the rendering and payment of such services shall be provided during the interim in accordance with the terms and conditions herein.

VIII. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. The University and the COLLEGE are agencies, or political subdivisions of the State of Florida. Both are entitled to the benefits of sovereign immunity, including immunities from taxation. In the event either party is required to obtain from any governmental authority any permit, license, or authorization as a prerequisite to perform its obligations under this Agreement, the cost shall be borne by the party required to obtain such permit, license, or authorization.

IX. In accordance with Section 112.3185, Florida Statutes, the University and the COLLEGE certify that to the best of their knowledge and belief, no individual employed by them or subcontracted by them has an immediate relation to any employee of the COLLEGE or University who was directly or indirectly involved in the procurement of the services described in this Agreement. Violation of this section shall be grounds for cancellation of this Agreement.

X. The COLLEGE may not, without the advance written approval of the University, assign any right under this Agreement nor may it transfer, pledge, surrender, or otherwise encumber or dispose of its interest in any portion of this Agreement. Nothing herein shall prohibit the COLLEGE from subcontracting any of the services provided hereunder. The University may not, without advance written approval of the COLLEGE, assign any right under this Agreement or transfer, pledge, surrender or otherwise encumber or dispose of its interests in any portion of this Agreement.

XI. This Agreement may be terminated by either party upon breach or default of the other party of its obligations hereunder, provided that the breaching party shall be provided with written notice by the non-breaching party of the alleged grounds for the breach and allowed a thirty (30) day period for cure following such notice (ten (10) days if the failure is nonpayment); provided, however that if the defaulting party proceeds with reasonable diligence during such cure period and is unable, because of circumstances beyond its control or because of the nature of the default to cure the default within such applicable time period, the time for cure shall be extended for a reasonable period of time.

XII. It is understood and agreed that nothing contained in this Agreement is intended, nor should be construed, as creating or establishing the relationship of partners between the parties, nor any type of agency. Neither party has the right or authority to bind or obligate the other as a result of this Agreement.

XIII. The University's representative for purposes of this Agreement shall be the Provost or his/her designee; the COLLEGE's representative for purposes of this Agreement shall be the Broward College Provost, or designee.

XIV. No failure to exercise or delay in exercising any right, power or remedy accruing to the University or COLLEGE for any breach or default of either party under this Agreement shall impair any such right, power or remedy of either party, nor be construed as a waiver by the University or COLLEGE of any such breach or default or of any similar breach or default.

thereafter occurring; nor shall any waiver of any single breach or default be construed as a waiver of any other breach or default thereafter occurring.

XV. This Agreement embodies the entire agreement of the parties and there are no other representation, promises, agreements, conditions, or understandings, either oral or written between University and the COLLEGE other than are set forth in this Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon either University or the COLLEGE unless reduced to writing and signed by them and by direct reference made a part of this Agreement.

XVI. The University and the COLLEGE may not accept a competitive solicitation from, or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date the person or affiliate was added to the convicted vendor list.

XVII. The parties agree to abide by all applicable federal, state, and local laws, ordinances, regulations, and policies. To the extent COLLEGE has access to University information, including without limitation financial, business, strategic, health or student records, COLLEGE agrees to maintain the confidentiality of such information and shall not disclose, discuss, or divulge any such information other than as directly and expressly required to fulfill COLLEGE's obligations under the Agreement or as other required by law.

XVIII. In the event applicable Judicial or administrative authorities shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof. However, where a breach of the contract goes to the whole of the contract, the contract is unenforceable.

XIX. No default, delay or failure to perform on the part of the COLLEGE or the University shall be considered a default, delay or failure to perform otherwise chargeable, hereunder, if such default, delay or failure to perform is due to causes beyond either party's reasonable control including, but not limited to, strikes, lockouts or inactions of governmental authorities; epidemics; war; embargoes, fire; earthquake; acts of God; default of common carrier. In the event of such default, delay or failure to perform, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay or failure to perform, Force Majeure does not apply to the payment obligations of this contract.

XX. All notices required to be given under this Agreement shall be sent by certified mail to:

Florida Atlantic University Attn: Purchasing, ADM 121, 777 Glades Road,
Boca Raton, FL 33431-0991

Broward College Attn: Broward College Dean, Libraries and Academic Success
Centers, 3501 Davie Road, Davie, Florida 33314

XXI. This Agreement has been negotiated by all the parties. Therefore, in the event of an ambiguity, such ambiguity shall not be construed against any party as the author of this Agreement.

BROWARD COLLEGE

Signature

Name

Title

Date

FLORIDA ATLANTIC UNIVERSITY

Signature

Name

Title

Date

Approved as to Form and Legality:

By: _____

Wendi Appelbaum
Associate General Counsel