

FEE-FOR-SERVICE CONTRACT AMENDMENT

Amendment # 12	Original Contract CMS (CLIN) # 06-00004	Amendment CMS # 49703
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1) PARTIES

This Amendment to the above-referenced Original Contract ("Contract") is entered into by and between the Governing Board for the Western State Colorado University ("Institution"), and the STATE OF COLORADO ("State") acting by and through the Department of Higher Education ("Department").

2) EFFECTIVE DATE

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date").

3) FACTUAL RECITALS

- a. The parties entered into the Contract dated July 1, 2005 (CLIN #06-00004), the first Amendment (CLIN# 06-00015), the Second Amendment (CLIN #07-00003), the Third Amendment (CLIN #08-00007), the Fourth Amendment (CLIN #09-00010), the Fifth Amendment (CLIN #09-00023), the Sixth Amendment (CMS #3363), the Seventh Amendment (CMS #20320), the Eighth Amendment (CMS #24703), the Ninth Amendment (CMS #33710), the Tenth Amendment (CMS #33994), and the Eleventh Amendment (CMS #45144) for the purchase of higher educational services.
- b. Additional funds have been budgeted, appropriated and otherwise made available for the purchase of additional higher education services for the residents of the state of Colorado for FY 2011-12.
- c. Additional funds have been budgeted, appropriated and otherwise made available for the purchase of additional higher education services for the residents of the state of Colorado for FY 2012-13.
- d. Prior to the Eleventh Amendment and FY2012-13, Western State Colorado University was known as Western State College of Colorado. The change was made by the General Assembly in HB12-1331 with an effective date of August 1, 2012.

4) CONSIDERATION-CONTINGENCY

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Amendment. The funding of this Contract is contingent upon the Department's funding from the Joint Budget Committee of the Colorado General Assembly (JBC). The JBC reserves the right to adjust the funding amount of the Contract in accordance with changes in student enrollment at the Institution.

5) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

6) MODIFICATIONS

a. FY 2011-12 close out

The Department has reduced the FY 2011-12 amount by twenty nine thousand, three hundred fifty seven dollars (\$29,357) for a total contract amount of forty seven million, twenty one thousand, ninety eight dollars (\$47,021,098) through the end of FY 2011-12. This adjusted the earlier agreement by (65) credit hours of courses that assist students in career development, retraining, and specialized high cost education at FY 2011-12 rates.

b. FY 2012-13 allocation

The Department will transfer an additional six million, seven hundred thirty-seven thousand, three hundred sixty-two dollars (\$6,737,362) for a total contract amount of fifty three million, seven hundred fit eight thousand, four hundred sixty dollars (\$53,758,460) through the end of FY 2012-13 for the purchase of the higher education services set forth in **Exhibit A-12, attached hereto and incorporated by reference**, under Fund Number **100**, Appropriation Account **FFS**. Upon the commencement of the Twelfth Amendment, the Department will transfer this amount in monthly payments (1/12 of total) within the first week of each month of the term of the contract.

c. Intercept Program

In accordance with SB08-245, if the Institution participates in the Intercept program the Institution is required to notify the Department of the Treasury (hereinafter referred to as the "Treasury") when the Institution is unable to make a required bond payment. The Treasury will make the required payment on behalf of the Institution and the Treasury is authorized to intercept the System's Fee-For-Service payment to recoup expended funds. Any payments made under the Contract (even if intercepted by a third party) are considered to be payments made to the Institution for services provided under the terms of the Contract.

7) START DATE

This Amendment shall take effect on the later of its Effective Date or July 1, 2012.

8) ORDER OF PRECEDENCE

In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control.

9) AVAILABLE FUNDS

FINANCIAL OBLIGATIONS OF THE STATE PAYABLE AFTER THE CURRENT FISCAL YEAR ARE CONTINGENT UPON FUNDS FOR THAT PURPOSE BEING APPROPRIATED, BUDGETED, AND OTHERWISE MADE AVAILABLE.

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

CONTRACTOR
Western State Colorado University

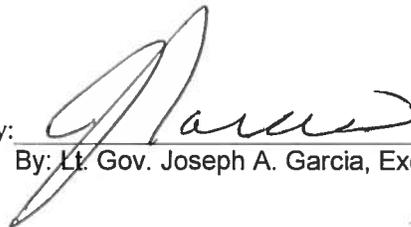


By: _____
By: Jay Helman
Title: President



By: Todd Wheeler
Title: Chair, Board of Trustees

STATE OF COLORADO
John Hickenlooper. GOVERNOR
Department of Higher Education



By: _____
By: Lt. Gov. Joseph A. Garcia, Executive Director

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
David J. McDermott, CPA

By: 

Date: 10/11/12

EXHIBIT A-12
STATEMENT OF WORK
Western State Colorado University

The General Assembly has found that some services which are offered by institutions of higher education go beyond the scope of undergraduate services and are not part of the College Opportunity Fund stipend program. Instead, the General Assembly has determined that it is in the best interests of the state of Colorado for the Department to purchase these selected educational services for the benefit of students. In accordance with 23-1-109.7 Colorado Revised Statutes (C.R.S.), these services may include, but need not be limited to:

- (a) Educational services in rural areas or communities in which the cost of delivering the educational services is not sustained by the amount received in student tuition;
- (b) to (d) repealed;
- (e) Educational services required of the commission to meet its obligations under reciprocal agreements pursuant to section 23-1-112;
- (f) Graduate school services;
- (g) Educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining; and
- (h) Specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering.

Reciprocal Agreements

In accordance with 23-1-113 (1) (b) (I) (B) Colorado Revised Statutes, the Department "shall identify those circumstances where the waiving of the nonresident differential in tuition rates, on a reciprocal basis with other states, would enhance educational opportunities for Colorado residents. The Department shall purchase services from the Institution in order to ensure the availability of these services in accordance with Colorado Commission on Higher Education policy authorizing this service. The purpose for purchasing such services shall be to ensure educational opportunities for Colorado residents in other states in order that they have access to unique programs and offering at institutions outside of Colorado.

Career Development, Retraining, and Specialized Education

The Department shall purchase career development, retraining and specialized education programs that provide focused educational training for students improving or changing careers. Additionally, the department shall purchase specialized education programs in which job retraining and career development opportunities provided by the institution require smaller class sizes with increased costs. The purpose for purchasing such services is to aid in providing a workforce that possesses the skill set necessary to meet the employment demands of state and local businesses. Such services shall be purchased by the Department on a credit hour cost basis as identified in the cost model developed by the Department and Institution as set forth in **Exhibit C-12**.

During the period of this agreement, the Department will purchase from the Institution the following units of graduate or other educational services:

a. The Department shall purchase zero (0) credit hours of other educational services for Reciprocal program at the rate of sixty-two dollars (\$62) per credit hour for a total of zero dollars (\$0).

b. The Department shall purchase 14,275 credit hours for courses that assist students in career development, retraining, and specialized high cost education. The rate at which such credit hours are purchased varies and is detailed in **Exhibit C-12**. The total amount of high cost program support purchased is six million, seven hundred thirty-seven thousand, three hundred sixty-two (\$6,737,362).

In order to ensure that such services are provided in a reasonable and fiscally responsible manner, the System shall report annually, through the Student Data Reporting Data System (SURDS), and the Final Student Enrollment Report, or by other means noticed and established by the Department, the number of student FTE served and credit hours provided by each category listed in this exhibit. If such reporting shows an amount of credit hours lower than is purchased herein, the Department shall adjust the payments under this contract accordingly. Further, the Department may audit such services periodically to ensure contract and statutory compliance including, but not necessarily limited to verifying that the number of credit hours purchased has been provided.

Nothing in this section shall prevent the Institution from enrolling students above and beyond the units contracted for under Other Educational Services.

Exhibit C-12: FY2010-11 Year End Actual Detail (1)

Fiscal Year	CIP Code	CIP Description	Dept Code	Total Student FTE	Total Faculty FTE	Total Faculty Compensation Cost	Total Other Institutional Costs	Total Institutional Costs	Total Institutional Cost Per Student FTE	Total Institutional Cost Per Credit	Percentage of Avg Institutional Cost	Total All Other E&G Costs	Total All Other E&G Costs Per Student FTE	Total All Other E&G Costs per Credit	Grand Total Costs Per Student FTE	Grand Total Cost Per Credit	Percentage of Average Cost
2011 03	CONSERVATION & RENEWABLE NATL RESOURCES	ENVS	56.87	3.15	151,811	24,227	176,038	3,995	103	66.0%	493,081	8,670	289	11,766	392	89.1%	
2011 09	COMMUNICATIONS	CALL	78.00	6.31	459,160	43,602	502,762	6,446	215	137.6%	676,285	8,670	289	15,116	504	113.2%	
2011 11	COMPUTER & INFORMATION SCIENCES	MOIS	26.93	2.15	147,438	10,018	157,456	5,847	195	124.8%	233,492	8,670	289	14,517	484	108.7%	
2011 13	EDUCATION	EDUC	28.23	4.27	272,870	64,844	337,714	11,983	399	255.4%	244,763	8,670	289	20,633	688	154.5%	
2011 16	FOREIGN LANGUAGES & LITERATURES	CALL	20.60	2.39	173,913	11,515	185,429	9,001	300	192.0%	178,609	8,670	289	17,672	589	132.3%	
2011 23	ENGLISH LANGUAGE & LITERATURE/LETTERS	CALL	115.60	6.74	490,450	64,620	555,070	4,802	160	102.4%	1,002,289	8,670	289	13,472	449	100.8%	
2011 24	LIBERAL ARTS & SCI, GEN STUDIES & HUMANITIES	HONOR	8.23	1.20	1,393	12,847	14,240	1,730	58	37.1%	71,357	8,670	289	10,401	347	77.9%	
2011 26	BIOLOGICAL SCIENCES/LIFE SCIENCES	MOIS	11.43	4.92	378,043	119,899	497,942	4,469	149	95.4%	966,134	8,670	289	13,139	438	98.4%	
2011 27	MATHEMATICS	MOIS	116.63	6.78	463,574	43,386	506,960	4,347	145	92.8%	1,011,219	8,670	289	13,017	434	97.5%	
2011 30	BIOL. & PHYS SCI	MOIS	16.87	1.59	122,172	18,152	140,325	8,318	277	177.3%	146,268	8,670	289	16,988	566	127.1%	
2011 31	PARKS, RECREATION, LEISURE & FITNESS STUDIES	RESS	183.80	12.85	611,082	198,320	809,402	4,404	147	94.1%	1,593,605	8,670	289	13,074	436	97.9%	
2011 38	PHILOSOPHY & RELIGION	CALL	19.80	1.43	104,057	11,068	115,125	5,814	194	124.2%	171,672	8,670	289	14,485	483	108.5%	
2011 40	PHYSICAL SCIENCES	MOIS	151.17	10.17	781,442	162,659	944,101	6,245	208	133.1%	1,310,692	8,670	289	14,916	497	111.6%	
2011 42	PSYCHOLOGY	BASS	107.23	5.55	303,191	22,217	325,408	3,032	101	64.6%	930,585	8,670	289	11,702	390	87.6%	
2011 45	SOCIAL SCIENCES & HISTORY	BASS	269.73	13.56	740,769	55,834	796,603	2,953	98	62.7%	2,338,645	8,670	289	11,624	387	86.9%	
2011 50	VISUAL AND PERFORMING ARTS	ART	216.33	17.51	895,447	286,477	1,181,924	5,464	182	116.5%	1,875,650	8,670	289	14,134	471	105.8%	
2011 52	BUSINESS MNGMNT & ADMIN SERVICES	BUS	248.13	13.03	1,132,151	107,937	1,240,087	4,998	167	106.9%	2,151,366	8,670	289	13,668	456	102.4%	
2011 54	HISTORY	BASS	78.73	3.46	189,006	16,297	205,303	2,808	87	55.7%	602,614	8,670	289	11,278	376	84.4%	
			1854.41	117.04	7,417,970	1,273,920	8,691,890	4,987	156		16,078,326	8,670	289	13,357	445		

Exhibit C-12: FY2010-11 Year End Actual Detail (2)

ALLOCATION OF INSTRUCTIONAL COSTS: FY2010-11 Actual

ACADEMIC DEPARTMENT	DEPARTMENT CODE	FACULTY FTE	TOTAL FACULTY COMPENSATION	AVERAGE COMPENSATION PER FACULTY FTE	STUDENT FTE	OTHER INSTRUCTIONAL COSTS /1	TOTAL INSTRUCTIONAL COSTS PER STUDENT FTE
Art and Music	ART	17.5	\$ 895,447	\$ 51,139	216.3	\$ 286,477	\$ 5,464
Behavior and Social Sciences	BASS	22.6	\$ 1,232,967	\$ 54,629	455.8	\$ 94,349	\$ 2,912
Business, Accounting, & Economics	BAE	13.0	\$ 1,132,151	\$ 86,888	248.1	\$ 107,937	\$ 4,998
Communication Arts, Languages, and Literature	CALL	16.9	\$ 1,227,579	\$ 72,767	234.0	\$ 130,806	\$ 5,805
Education	EDUC	4.3	\$ 272,870	\$ 63,904	28.2	\$ 64,844	\$ 11,963
Environmental Studies	ENVS	3.2	\$ 151,811	\$ 48,194	56.9	\$ 24,227	\$ 3,095
Honors Program /2	HONOR	1.2	\$ 1,393	\$ 1,161	8.2	\$ 12,847	\$ 1,730
Mathematics and Computer Information Sciences	MCIS	8.9	\$ 611,012	\$ 68,576	143.6	\$ 53,404	\$ 4,628
Natural and Environmental Sciences	NES	16.7	\$ 1,281,658	\$ 76,838	279.5	\$ 300,710	\$ 5,662
Recreation and Exercise Sports Sciences	RESS	12.9	\$ 611,082	\$ 47,555	183.8	\$ 198,320	\$ 4,404
		117.0	\$ 7,417,970	\$ 63,380	1,854.4	\$ 1,273,920	\$ 4,687

/1 Other instructional costs include support assistants, student work-study, capital, travel, and other current expenses (OCE).

/2 The Honors program is an interdisciplinary program with no faculty directly assigned to the department. The faculty FTE reflected represent the allocation of faculty from other programs who taught Honors courses.

ALLOCATION OF OTHER E&G COSTS: FY2010-11 Actual

NACUBO CATEGORY	TOTAL COST	AVERAGE COST PER STUDENT FTE	AVERAGE COST PER CREDIT
Public Service	\$ 40,943	\$ (1,854.4)	\$ 1
Academic Support	\$ 1,584,878	\$ 855	\$ 28
Student Services	\$ 3,346,402	\$ 1,805	\$ 60
Institutional Support	\$ 3,235,261	\$ 1,745	\$ 58
O&M of Plant	\$ 1,818,549	\$ 981	\$ 33
Scholarships	\$ 2,680,193	\$ 1,445	\$ 48
Depreciation /1	\$ 2,844,104	\$ 1,534	\$ 51
Transfers	\$ 527,996	\$ 285	\$ 9
	\$ 16,078,326	\$ 8,670	\$ 289

/1 Depreciation of GF facilities, equipment and library materials only.

**Exhibit C-12 Detail (3)
ALLOCATION OF TOTAL COSTS: FY2011-12 Estimated Actual**

NACUBO CATEGORY	ESTIMATED TOTAL COST	ESTIMATED AVERAGE COST PER STUDENT FTE (1,793.1)	ESTIMATED AVERAGE COST PER CREDIT
Instruction	\$ 8,745,680	\$ 4,878	\$ 163
Public Service	\$ 43,380	\$ 24	\$ 1
Academic Support	\$ 1,803,674	\$ 1,006	\$ 34
Student Services	\$ 3,639,283	\$ 2,030	\$ 68
Institutional Support	\$ 2,938,660	\$ 1,639	\$ 55
O&M of Plant	\$ 1,809,604	\$ 1,009	\$ 34
Scholarships	\$ 3,291,085	\$ 1,836	\$ 61
Depreciation /2	\$ 2,844,104	\$ 1,586	\$ 53
Transfers	\$ 588,112	\$ 328	\$ 11
	\$25,703,582	\$ 14,336	\$ 478

/1 Depreciation of GF facilities, equipment and library materials only.
Estimated at FY2010-11 actual.

ALLOCATION OF TOTAL COSTS: FY2012-13 Budget

NACUBO CATEGORY	BUDGETED TOTAL COST	BUDGETED AVERAGE COST PER STUDENT FTE (1,802.6)	BUDGETED AVERAGE COST PER CREDIT
Instruction	\$ 9,369,212	\$ 5,198	\$ 173
Public Service	\$ 41,721	\$ 23	\$ 1
Academic Support	\$ 1,755,831	\$ 974	\$ 32
Student Services	\$ 3,543,656	\$ 1,966	\$ 66
Institutional Support	\$ 3,165,672	\$ 1,756	\$ 59
O&M of Plant	\$ 1,909,942	\$ 1,060	\$ 35
Scholarships	\$ 3,891,043	\$ 2,159	\$ 72
Depreciation /1	\$ 2,844,104	\$ 1,578	\$ 53
Transfers /2	\$ 95,007	\$ 53	\$ 2
	\$26,616,188	\$ 14,765	\$ 492

/1 Depreciation of GF facilities and equipment budgeted at FY2010-11 actual.
/2 Includes indirect cost recovery from federal financial aid.