

Department of Higher Education
Department Number
Contract Routing Number

FOURTH AMENDMENT TO FEE-FOR-SERVICE CONTRACT

THIS Fourth Amendment to the Fee-For-Service Contract, made this _____ day of May 2009, by and between the State of Colorado for the use and benefit of the Department of Higher Education (hereinafter referred to as the "Department"), and the Governing Board for Metropolitan State College of Denver (hereinafter referred to as the "Institution").

RECITALS

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated, or otherwise made available and a sufficient unencumbered balance thereof remains available for payment;

WHEREAS, required approval, clearance, and coordination has been accomplished from and with the appropriate agencies;

WHEREAS, the parties entered into a Fee-For-Service Agreement dated May 1, 2006, for the purchase of higher educational services for the residents of the state of Colorado;

WHEREAS, additional funds have been budgeted, appropriated, or otherwise made available for the purchase of higher education services for the residents of the state of Colorado; and

WHEREAS, all modifications made to this contract amendment to reflect recent statutory changes, the new performance period, the amount transferred by the Department, and the payment terms all of which are further explained in Paragraphs 3 and 4 of the Agreement herein.

AGREEMENT

NOW THEREFORE, it is hereby agreed that:

1. Consideration for this amendment to the original Fee-For-Service Contract, (identified by the Contract Routing Number GAA-000009), dated May 1, 2006, consists of the payments which shall be made pursuant to this amendment and the promises and agreements set forth by each party, herein.
2. It is expressly and mutually agreed by the parties that this amendment is intended to be supplemental to the original Fee-For-Service Contract (CLIN # 05-0017), referred to as the "original contract". The original contract is referenced specifically and expressly incorporated herein. It is the expressed and mutual intent of the parties that all terms, conditions, and provisions contained in the original contract are to be applied to this Fourth amendment as though said terms, conditions, and provisions were expressly rewritten, incorporated, and included herein, unless specifically modified hereby this Fourth amendment or by the terms,

conditions, or provisions found in Amendments 1, 2, and 3 (CLIN # 07-00007, 08-00005, and 09-00005, respectively).

3. The parties expressly and mutually agree that any modifications, alterations or changes to the terms, conditions or provisions of the original contract affected by and through this Fourth Amendment to the Fee-For-Service Contract, are expressly limited to the following:

a. The funding of this Contract is contingent upon the Department's funding from the Joint Budget Committee of the Colorado General Assembly (hereinafter referred to as the "JBC"). The JBC reserves the right to adjust the funding amount of the Contract in accordance with changes in student enrollment at the Institution. The JBC has reduced the FY 2007-08 amount by purchasing one hundred ninety-one thousand, nine hundred ninety-seven dollars (\$191,997) less for a total contract amount of thirteen million, eight hundred fifteen thousand, six hundred ninety-six dollars (\$13,815,696) through the end of FY 2007-08. This was to purchase 1,083 fewer credit hours of courses that assist student in Aerospace Science, Nursing, Engineering Technologies, Computer & Information Sciences, Biological & Life Sciences, and Physical Sciences at a FY 2007-08 rate of \$177 per credit hour.

b. The Institution has delivered or shall deliver the additional education services to the residents of Colorado set forth in **Exhibit A-4** as attached hereto and expressly incorporated hereby.

c. The Department will adjust its prior FY 2008-09 purchase order of five million, seven hundred twenty-seven thousand, two hundred ninety-two dollars (\$5,727,292) to a new amount of seven million, two hundred sixty-seven thousand, eighty-eight dollars (\$7,267,088) for a total contract amount of twenty-one million, eighty-two thousand, seven hundred eighty-four dollars (\$21,082,784) through the end of FY 2008-09 to the Institution for the purchase of the higher education services set forth in **Exhibit A-4** as attached, hereto under Fund Number **100**, Appropriation Account **FFS** and Organization Number **MSCD**. Upon the commencement of the Fourth 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.

d. 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 System 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 Institution'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.

4. The term of this agreement and amendment is from July 1, 2008 through June 30, 2009.

5. The effective date of this amendment is the date upon which the approval by the State Controller is affixed hereto, or July 1, 2008, whichever date is later.

6. In the event of any conflict, ambiguity, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original contract, the


provisions of this amendment shall in all respects supersede, govern, and otherwise control the contractual rights and obligations of the parties.

7. 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.

IN WITNESS WHEREOF, the parties have executed this agreement.

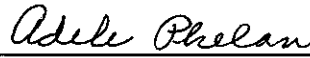
For the **Institution:**

For the **Department:**

By  _____
Stephen M. Jordan, Ph.D.
President

By _____
David E. Skaggs
Executive Director

APPROVED:
Governing Board

By:  _____
Adele Phelan
Chair

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below or on July 1, 2008, whichever date is later. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:
David J. McDermott

By _____

Date _____

EXHIBIT A-4
STATEMENT OF WORK

Metropolitan State College of Denver

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, C.R.S.;

(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.

Specialized Educational Services and Professional Degrees

The Department has found that certain educational services offered in the Denver metropolitan area are not sustainable from tuition and fee revenue alone. Because such services are needed, the Department shall purchase them as specialized educational services. Services shall include, but are not limited to: technology and laboratory support in Engineering Technology; equipment and laboratory support for Aviation and Aerospace Science; support for clinical education experiences and the development of practice scenarios used for simulation in the Nursing program; and equipment and laboratory support for programs in computing, biological & life, and physical sciences. The Institution shall provide educational support and specialized services to the Department consistent with its statutory role and mission. The Department, on a credit hour cost basis, shall purchase educational support and specialized services as set forth in Exhibit C-3.

Other educational services shall be purchased in accordance with Title 23, Article 1, Section 109.7, Colorado Revised Statutes. Specifically, the following services shall be purchased:

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

The Department shall purchase 36,963 weighted credit hours at One hundred ninety-seven dollars (\$197) per credit hour for courses in Aerospace Science, Nursing, Engineering Technologies, Computer & Information Sciences, Biological & Life Sciences, and Physical Sciences for a total of seven million, one hundred forty-eight thousand, and seven hundred sixty-eight dollars (\$7,267,088).

In order to ensure that such services are provided in a reasonable and fiscally responsible manner, the Institution shall report annually, through the Student Unit 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 ensuring 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.

FUNDING CALCULATIONS BASED ON TEXAS COST ANALYSIS

FY	CIP AREA	CIP DESCRIPTION	LEVEL	FTE	SCH	SFTFTE	FY2006-07		High Cost Total per FTEs	Weight	Weighted SFTFTE		
							Actual Total Costs	Baseline Total Cost					
2007 11		Computer & Information Sciences	1	13.7	7,440	248.0	10,557	5,898	4,659.0	1.79	443.9		
2007 11		Computer & Information Sciences	2	7.6	2,550	85.0	17,753	5,898	11,855.0	3.01	255.9		
2007 15		Engineering-Related Technologies	1	6.0	2,550	85.0	11,029	5,898	5,131.0	1.87	159.0		
2007 15		Engineering-Related Technologies	2	9.0	2,730	91.0	13,978	5,898	8,080.0	2.37	215.7		
2007 26		Biological Sciences/Life Sciences	1	19.8	17,880	596.0	10,557	5,898	4,659.0	1.79	1,066.8		
2007 26		Biological Sciences/Life Sciences	2	9.0	6,300	210.0	17,753	5,898	11,855.0	3.01	632.1		
2007 40		Physical Sciences	1	21.7	18,420	614.0	10,557	5,898	4,659.0	1.79	1,099.1		
2007 40		Physical Sciences	2	14.2	6,300	210.0	17,753	5,898	11,855.0	3.01	632.1		
2007 49		Transportation & Materials Moving Workers	1	6.6	3,000	100.0	10,557	5,898	4,659.0	1.79	179.0		
2007 49		Transportation & Materials Moving Workers	2	9.3	3,810	127.0	17,753	5,898	11,855.0	3.01	382.3		
2007 51		Health Professions & Related Sciences	1	7.2	4,170	139.0	10,557	5,898	4,659.0	1.79	248.8		
2007 51		Health Professions & Related Sciences	2	9.6	4,050	135.0	17,753	5,898	11,855.0	3.01	406.4		
						<u>133.7</u>	<u>79,200</u>	<u>2,640.0</u>	<u>166,557</u>	<u>70,776</u>	<u>95,781.0</u>	<u>28.2</u>	<u>5,720.9</u>
High Cost Identified Programs						Total	HC SFTFTE	FFS					
						5,898	3,080.92	18,171,266					
High Cost FTE						1,232.10	7,267,088						
Purchasing Weighted Credit Hours for						36,963.0	197.00						

FUNDING CALCULATIONS BASED ON TEXAS COST ANALYSIS

FY	CIP AREA	CIP DESCRIPTION	LEVEL	FTE	SCH	SFTE	FY2006-07		2006-07		Weighted	
							Actual Total Costs	Baseline Total Cost	High Cost Total per FTES	Weight		SFTE
SUMMARY of all MSCD Credit Hour Production:												
2007 28		Reserve Officers' Training Corp	1	0.0	60	2.0	5,898	5,898	5,898	0.0	1.00	2.0
2007 24		Liberal Arts & Sciences, General Studies	1	0.1	57	1.9	5,898	5,898	5,898	0.0	1.00	1.9
2007 12		Personal & Miscellaneous Services	1	0.6	246	8.2	5,898	5,898	5,898	0.0	1.00	8.2
2007 31		Parks, Rec, Leisure, & Fitness Studies	1	0.8	435	14.5	7,903	5,898	5,898	2,005.3	1.34	19.4
2007 31		Health & Physical Education/Fitness	1	0.5	306	10.2	5,898	5,898	5,898	0.0	1.00	10.2
2007 30		Multi/interdisciplinary Studies	1	1.6	915	30.5	5,898	5,898	5,898	0.0	1.00	30.5
2007 22		Law & Legal Studies	1	3.7	2,601	86.7	10,557	5,898	5,898	4,659.4	1.79	155.2
2007 44		Public Administration & Services	1	7.6	4,206	140.2	14,096	5,898	5,898	8,198.2	2.39	335.1
2007 19		Family & Consumer Science/Human Science	1	6.9	5,331	177.7	6,252	5,898	5,898	353.9	1.06	188.4
2007 43		Protective Services	1	7.9	6,924	230.8	14,096	5,898	5,898	8,198.2	2.39	551.6
2007 38		Philosophy & Religion	1	16.5	10,467	348.9	5,898	5,898	5,898	0.0	1.00	348.9
2007 13		Education	1	17.5	9,084	302.8	8,257	5,898	5,898	2,359.2	1.40	423.9
2007 52		Business Mgmt & Adm. Services	1	19.8	12,732	424.4	6,311	5,898	5,898	412.9	1.07	454.1
2007 05		Area, Ethnic & Cultural Studies	1	15.0	10,701	356.7	5,898	5,898	5,898	0.0	1.00	356.7
2007 16		Foreign Languages & Literatures	1	17.7	11,319	377.3	5,898	5,898	5,898	0.0	1.00	377.3
2007 54		History	1	15.2	12,465	415.5	5,898	5,898	5,898	0.0	1.00	415.5
2007 42		Psychology	1	16.9	16,995	566.5	10,557	5,898	5,898	4,659.4	1.79	1,014.0
2007 09		Communications	1	37.2	20,121	670.7	5,898	5,898	5,898	0.0	1.00	670.7
2007 50		Visual & Performing Arts	1	44.2	20,583	686.1	8,316	5,898	5,898	2,418.2	1.41	967.4
2007 27		Mathematics	1	33.3	23,046	768.2	10,557	5,898	5,898	4,659.4	1.79	1,375.1
2007 23		English Language & Literature	1	49.4	27,912	930.4	5,898	5,898	5,898	0.0	1.00	930.4
2007 45		Social Sciences & History	1	37.6	35,739	1,191.3	5,898	5,898	5,898	0.0	1.00	1,191.3
		Level 1 Total		350.0	232,245	7,741.5	167,680	129,756	37,924.1	28.43	9,827.8	
2007 28		Reserve Officers' Training Corp	2	0.0	81	2.7	10,439	5,898	5,898	4,541	1.77	4.8
2007 02		Agricultural Sciences	2	0.1	120	4.0	15,925	5,898	5,898	10,027	2.7	10.8
2007 04		Architecture & Related Programs	2	0.8	327	10.9	13,978	5,898	5,898	8,080	2.37	25.8
2007 12		Personal & Miscellaneous Services	2	1.3	558	18.6	10,439	5,898	5,898	4,541	1.77	32.9
2007 51		Nursing	2	5.4	861	28.7	15,689	5,898	5,898	9,791	2.66	76.3
2007 31		Health & Physical Education/Fitness	2	2.7	825	27.5	10,439	5,898	5,898	4,541	1.77	48.7
2007 31		Parks, Rec, Leisure, & Fitness Studies	2	1.6	903	30.1	7,373	5,898	5,898	1,475	1.25	37.6
2007 22		Law & Legal Studies	2	1.7	1,035	34.5	17,753	5,898	5,898	11,855	3.01	103.8
2007 19		Family & Consumer Science/Human Science	2	2.5	1,689	56.3	10,734	5,898	5,898	4,836	1.82	102.5
2007 27		Mathematics	2	6.1	2,130	71.0	17,753	5,898	5,898	11,855	3.01	213.7

