Contract Between

STEPHEN F. AUSTIN STATE UNIVERSITY

AND

NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT

This Contract is made by and between Stephen F. Austin State University at Nacogdoches, Texas ("SFASU") and North Harris Montgomery Community College District at The Woodlands, Texas ("Contractor").

WHEREAS, SFASU has been awarded funding for a project titled “Articulated Internet Teacher Education Program for Multilingual Elementary Classrooms” funded by the United States Department of Education (Prime Contractor), Award Number P116B060283 (CFDA No. 84.116);

WHEREAS, Contractor is ready, able and willing to undertake a portion of said efforts as hereinafter set forth; and

WHEREAS, it is the intent of this Contract to provide maximum administrative flexibility in the conduct of this project;

NOW THEREFORE, and in consideration of the mutual covenants and promises of the parties hereinafter set forth, it is hereby agreed as follows:

ARTICLE I – Scope of Work

In order to maintain good communication and to work together toward the success of the students and teachers in the program, the Contractor agrees to: 1) have at least one representative attend yearly partner meetings to plan and implement the program, and to develop a plan for sustainability; 2) actively promote and market the opportunities for articulation to current AAT students; 3) participate in the evaluation of the program; 4) identify an individual to serve as a program liaison to work with the partnership on program development and strategies; and 5) work with the partnership to develop strategies to retain new teacher interns.

The Contractor shall furnish the necessary personnel, materials, services, facilities, and equipment, and otherwise do all things necessary for the performance of its work described in the proposal and award documents.

ARTICLE II – Period of Performance

The period of performance for the first contract period shall be from January 1, 2007 through September 30, 2007. Expenditures incurred prior to the beginning date are unallowable. This contract shall renew on October 1 of each subsequent year in one-year increments through 09/30/09 by mutual written consent of both parties. This renewal is contingent upon the continuation of the prime award and the availability of funding from the U.S. Department of Education.
ARTICLE III – Allowable Costs and Payment

For the performance of this cost reimbursable Contract, SFASU shall pay the Contractor the costs detailed in Attachment A and determined to be allowable. For the performance of the first contract period (01/01/07 – 09/30/07), SFASU shall reimburse the Contractor for allowable costs incurred up to but not to exceed $6,000. Reimbursement is contingent upon funds provided by the prime funding source. Funding for subsequent years is detailed in Attachment A and is contingent upon continuation of the prime award, the availability of funding from the U.S. Department of Education, and satisfactory performance by the Contractor. The maximum award under this contract is $14,000.

The Contractor may submit invoices to SFASU not more frequently than monthly. Said invoices should be properly prepared on entity letterhead, should certify that all payments requested are for appropriate purposes and in accordance with the agreements set forth in the proposal and award documents, should itemize the costs by budget category per Attachment A, and should be signed by Contractor’s duly authorized representative. Promptly after receipt of each invoice, SFASU shall make payment thereof except as provided herein. All invoices should be mailed to Mrs. Paula Griffin, Project Director, Stephen F. Austin State University, Box 13017 SFA Station, Nacogdoches, Texas 75962. The final invoice must be submitted within thirty (30) calendar days after the termination date of this Contract and must be marked “FINAL” by the Contractor.

Contractor shall reimburse to SFASU a sum of money equivalent to the amount of any expenditures disallowed should the funding agency or authorized agency rule that, through audit exception or some other appropriate means, the expenditures were not made in compliance with the regulations of the funding agency or the provisions of this Contract.

ARTICLE IV – Audit of Records

Contractor agrees to comply with the requirements of federal OMB Circulars A-110, A-21, and either A-133 or A-128, as appropriate.

Notwithstanding any other conditions of this contract, the books and records of the Contractor will be made available upon request, at the Contractor’s regular place of business, for audit by personnel authorized by SFASU or the Prime Contractor. All of the foregoing provisions shall apply to any lower tier sub recipient performing substantive work under this Contract.

A third party annual audit report should be available for review by SFASU or the Prime Contractor. If this report is not available, Contractor will obtain the services of an accounting firm at its expense to audit this Contract as required by the federal government.

ARTICLE V – Inspection

SFASU, the U.S. Department of Education, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions, and shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed by the Contractor. This Contract, including all records related thereto, shall be retained until three (3) years after the
termination or completion of this Contract, final payment, or the resolution of any SFASU or U.S. Government action involving this Contract, whichever comes later.

ARTICLE VI – Independent Contractor

For the purposes of this Contract and all services to be provided hereunder, the parties shall be, and shall be deemed to be, independent contractors and not agents or employees of the other party. Neither party shall have authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other party except as may be explicitly provided for herein or authorized in writing.

ARTICLE VII – Termination

Performance under this Contract may be terminated by SFASU upon thirty (30) days written notice. Performance may be terminated by Contractor if circumstances beyond its control preclude continuation of the program. Upon termination, Contractor will be reimbursed as specified in Article III for all costs and non-cancelable commitments incurred in the performance of the program, such reimbursement not to exceed the total estimated cost specified in Article III.

ARTICLE VIII – Reports

The Contractor shall submit reports in such quantity and frequency as determined reasonably appropriate by SFASU's Project Director. The Contractor agrees to provide a minimum of one written progress report to the Project Director annually for the duration of the project, and to provide additional reports periodically as determined by the Project Director. Such report shall note progress made toward achievement of the project objectives and any deviation from the schedules, methods and tasks established in Attachment A.

ARTICLE IX – Requirements

The Contractor shall be responsible for compliance with all requirements and obligations relating to such services under local, state, or federal law. The Contractor shall also be responsible for all licensing requirements of any local, state, or federal jurisdiction to which the performance of its services may be subject.

ARTICLE X – Liability

To the extent allowed by applicable federal and state law, and without waiver of any immunities it is entitled to claim, Contractor agrees to hold SFASU, their Regents, officers, employees, and agents (indemnified persons) harmless and indemnify from any liability for damages or claims for damages of whatever nature arising from the negligent acts and omissions occurring conduct of this project at Contractor. Contractor does not agree to hold the indemnified persons harmless for the negligence of SFASU, its officers, employees, or agents, or the actions of a third party over which Contractor has no supervision, control, or jurisdiction.
ARTICLE XI – Publications and Copyrights

SFASU and Contractor will be free to publish the results of this project under this Contract.

ARTICLE XII – Assurances

By acceptance of this Contract the Contractor hereby certifies the following:

A. Contractor is not presently debarred, suspended, or declared ineligible from entering into contracts with any Department or Agency of the Federal Government, or in receipt of a notice of proposed debarment or suspension. The Contractor agrees to secure from its subcontractors in transactions expected to equal or exceed $25,000, certification that such participants are not suspended, debarred, or declared ineligible from entering into contracts with any Department or Agency of the Federal Government.

B. Contractor is not delinquent on any Federal debt.

C. Contractor is in compliance with Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-960, Title V, Subtitle D).

D. Contractor is in compliance with the requirements of Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41CFR, Part 60). Contractor agrees to secure certification from subcontractors in transactions expected to equal or exceed $10,000 that such participants are in compliance with the requirements of Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41CFR, Part 60).

E. To the best of Contractor’s knowledge and belief:

1) No Federal appropriated funds have been or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL “Disclosure Form to Report Lobbying” in accordance with its instructions.

3) The Contractor shall require the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all recipients shall certify and disclose accordingly.
ARTICLE XII – Assurances

By acceptance of this Contract the Contractor hereby certifies the following:

F. Contractor is not presently debarred, suspended, or declared ineligible from entering into contracts with any Department or Agency of the Federal Government, or in receipt of a notice of proposed debarment or suspension. The Contractor agrees to secure from its subcontractors in transactions expected to equal or exceed $25,000, certification that such participants are not suspended, debarred, or declared ineligible from entering into contracts with any Department or Agency of the Federal Government.

G. Contractor is not delinquent on any Federal debt.

H. Contractor is in compliance with Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-960, Title V, Sub title D).

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J. To the best of Contractor’s knowledge and belief:

4) No Federal appropriated funds have been or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

5) If funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions.

6) The Contractor shall require the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all recipients shall certify and disclose accordingly.
ARTICLE XIII – Additional Provisions

A. Prime Agreement Terms and Conditions. This agreement is further governed by the terms and conditions of the Prime Agreement between SFASU and the U. S. Department of Education, Award Number P116b060283 (CFDA No. 84.116). Should a conflict between provisions occur, the terms of the prime agreement shall take precedence over the terms and conditions of this Contract.

B. Cost Sharing. Contractor is not required to document cost-shared contributions to this grant.

ARTICLE XIV – Severability

The phrases, clauses, sentences, paragraphs or sections of this Contract are severable and, if any phrase, clause, sentence, paragraph, or section of this Agreement should be declared invalid by the final decree or judgment of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phases, clauses, sentences, paragraphs, and sections of this Contract.

ARTICLE XV – Dispute Resolution

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the parties to attempt to resolve all disputes arising under this Contract. Contractor must give written notice to SFASU of a claim for breach of this Contract not later than the 180th day after the date of the event giving rise to the claim. By its execution of the Contract, Contractor acknowledges and knowingly and voluntarily agrees that neither the execution, administration, nor the performance of this Contract constitutes or is intended to constitute a waiver of SFASU or the state’s immunity from suit.

ARTICLE VI – Merger and Amendment

This Contract constitutes the entire agreement between the parties with respect to the subject matter and may only be modified or amended by a written agreement signed by both parties. It shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their authorized representative.

STEPHEN F. AUSTIN STATE UNIVERSITY

Date: 5-1-07

Dr. Marlin Young, Provost
Richard Berry, Associate Provost

NORTH HARRIS MONTGOMERY COUNTY COMMUNITY COLLEGE DISTRICT

Date: 6-12-07

Dr. John Pickelman, Chancellor
ATTACHMENT A
NORTH HARRIS MONTGOMERY COUNTY COMMUNITY COLLEGE DISTRICT

Funds provided under this contract are to be used to support the following project goals and objectives: 1) seamless transfer of Associate of Arts in Teaching students into high-quality baccalaureate teacher education programs; 2) opportunities for their students to stay in the local communities to complete teaching degrees and teach in local schools; 3) resources to expand online course offerings for AAT degrees; 4) curriculum development to ensure that AAT students graduate with leadership skills, strong technical skills, and awareness of and appreciation for diversity; 5) professional development of AAT program faculty; 6) counseling and financial aid assistance to students; and 7) opportunities for collaboration with other institutions.

Funds provided under this contract may be used to support the following activities to enable full participation in the project: 1) making more AAT courses available online; 2) enhancing current AAT courses; 3) marketing, recruitment and advising potential education students; 4) providing professional development on the use of technology and on diversity issues and awareness; 5) purchasing teacher resource materials; and 6) travel assistance.

BUDGET

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<td>Stipend for Grant Liaison (due to size and number of colleges in district)</td>
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<td>Marketing Materials</td>
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