

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day
of _____, 2003, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

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| <p>Florida Atlantic University, acting for and on behalf of the Florida Atlantic University Board of Trustees</p> | <p>FLORIDA ATLANTIC UNIVERSITY (herein referred to as "FAU") whose principal place of business is 777 Glades Road Boca Raton, Florida 33431-0991</p> |
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WHEREAS, Broward County is one of the fastest growing school districts and communities in the nation, with an average increase of 10,000 new students each year; and,

WHEREAS, SBBC has an objective to reorganize and align essential student support systems, school operations and technology to maximize student achievement; and,

WHEREAS, SBBC, in concert with its community partners, has established various initiatives designed to develop and retain qualified teachers; and,

WHEREAS, SBBC, in concert with its higher education partners, has established various initiatives designed to develop and retain qualified teachers; and,

WHEREAS, the Digital Education Teacher Academy (DETA) is one of those initiatives and which also supports the new legislative mandate, *No Child Left Behind Act of 2001*; and,

WHEREAS, the DETA is designed to provide training that will enable teachers to integrate technology into the delivery of all curriculum; and,

WHEREAS, FAU has agreed to support these initiatives by delivering graduate level courses for SBBC teachers to become technologically adept; and,

WHEREAS, the graduate courses offered by FAU will align to National Education Technology Standards (NETS).

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein the sum of Ten Dollars (\$10.00) and other goods and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals:** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Program Description:** The DETA is a program designed and developed to support H.R. 1 Section 1119, *No Child Left Behind Act of 2001* federal mandate and to put highly qualified educators in Broward schools. This program is a partnership with FAU. According to the *No Child Left Behind Act of 2001*, all teachers must be technology literate by 2006 as defined by NETS. DETA provides Broward teachers with a framework of educational pedagogy infused with technology integration. This theory to practice model is co-taught by a teaching team of an FAU professor and a Broward instructional technology specialist. As a result, participating teachers will be given the skills and tools needed to effectively employ instructional technology as a part of daily classroom practice.

2.02 **Participant Selection:** Participants must be current employees in SBBC schools. Participants will be selected based on established SBBC staff development procedures. Participants must agree to complete the graduate level courses associated with DETA.

2.03 **Program Deliverables (FAU):**

- A. FAU agrees to participate in the mutual development of all DETA curriculum with SBBC.
- B. FAU agrees to deliver prescribed DETA curriculum through graduate level courses.
- C. FAU agrees to provide qualified instructors to deliver DETA curriculum.
- D. FAU will provide technical support in the form of experienced personnel to troubleshoot problems and ensure the operational integrity of all equipment used within the DETA program.
- E. FAU will share in the responsibility of providing facilities and equipment necessary to deliver the DETA program.
- F. FAU will provide documentation to SBBC to verify participant enrollment and completion of course work throughout the program term.
- G. FAU will provide parking passes for DETA participants and staff at no expense to SBBC, DETA participants or staff.

2.04 **Program Deliverables (SBBC):**

- A. SBBC agrees to participate in the mutual development of all DETA curriculum with FAU.
- B. SBBC agrees to provide instructional resources aligned to the courses, such as software, for DETA participants.
- C. SBBC will share in the responsibility of providing facilities and equipment necessary to deliver the DETA program.
- D. SBBC will provide class rosters and counts to FAU throughout the program term.
- E. SBBC agrees to provide classroom follow-up for all DETA participants including observation of lessons, mentoring and coaching.

2.05 **Program Delivery:** The program will utilize a variety of delivery methods including on-line and distance learning. Courses will be delivered to a cohort group on five consecutive days during the summer, and at various times including weekends and evenings throughout the term of this agreement. The DETA program will be delivered at FAU and SBBC sites.

2.06 **Program Evaluation:** DETA will be evaluated by an independent consultant employed by the Research Services Department of SBBC. The focus of the evaluation for the term of this agreement will include an impact study to determine the effectiveness of this training initiative. As a part of the evaluation process, FAU will provide individual course evaluation and other program data as determined by the consultant.

2.07 **Program Funding:** SBBC agrees to pay FAU a sum not to exceed \$416,000 under the terms of this agreement. The payment will be based upon a per person tuition rate of \$520 per three-credit course.

2.08 **Method of Payment:** FAU will invoice SBBC after the completion of each DETA course offering. A student roster should accompany each invoice.

2.08 **Term of Agreement** The term of this agreement shall be from July 1, 2003 through June 30, 2004.

2.09 **Indemnification:** Each party agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. Nothing herein is intended as a waiver of any defense or immunity available to a party under Florida law.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

3.02 **No Third Party Beneficiaries:** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties.

3.03 **Non-Discrimination:** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, National origin, marital status, disability or sexual orientation.

3.04 **Termination:** This Agreement may be cancelled by either party upon thirty-(30) days prior written notice to the other party of its desire to terminate this Agreement. In the event of termination, FAU shall receive payment of services rendered up to the effective date of termination.

3.05 **Records:** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.06 **Entire Agreement:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.07 **Amendments:** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.08 **Preparation of Agreement:** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.09 **Waiver:** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 **Compliance with Laws:** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.11 **Governing Law:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.12 **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.13 **Assignment:** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.14 **Force Majeure:** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.15 **Place of Performance:** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.16 **Severability:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included in the agreement.

3.17 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Dr. Jeanine Gendron, Director, CSDS
Name of District Representative
The School Board of Broward County, Florida
7720 W. Oakland park Blvd.
Address
Sunrise, Florida 33351
Address

To FAU: Dr. Kathleen O’Rourke, University Liaison
Florida Atlantic University
Name of Other Party

Education & Science Building, Room 224
2912 College Avenue
Address
Davie, Florida 33314
Address

Dr. Abigail J. Oliver, Director
Florida Atlantic University
Name of Other Party
Professional Development and Training
777 Glades Road
Address
Boca Raton, Florida 33431
Address

3.18 **Captions:** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Authority:** Each person signing this Agreement on behalf of a party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

3.20 **Excess Funds:** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

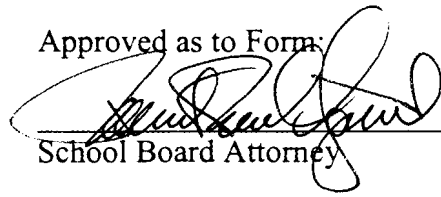
(Corporate Seal)

THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA

By _____
Lois Wexler, Chair

ATTEST:

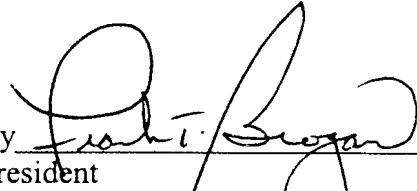
Franklin L. Till, Jr.,
Superintendent of Schools

Approved as to Form:

School Board Attorney

FOR COLLEGE OR UNIVERSITY

Florida Atlantic University

ATTEST:

By 
President

Secretary

-or-

Witness

Witness

STATE OF _____

COUNTY OF _____

APPROVED AS TO FORM
AND LIABILITY
General Counsel
Florida Atlantic University
JBL
8/21/03