



ALEDO ISD BOARD MEETING TEMPLATE

MEETING DATE: July 18, 2016

AGENDA ITEM: Consider Approval of Agreement with Dr Pepper Snapple Group

PRESENTER: Earl Husfeld

ALIGNS TO BOARD GOAL(S): Financial/Facilities – The District shall exhibit excellence in financial and facility planning, management, and stewardship.

BACKGROUND INFORMATION:

- During the May 16, 2011 board meeting, the Board of Trustees approved the renewal of an Exclusive License and Supplier Agreement with The American Bottling Company/Dr Pepper Snapple Group.
- That renewal of the five (5) year beverage/vending agreement was effective June 1, 2011.

ADMINISTRATIVE CONSIDERATIONS:

- Since August 1, 2006, the District has had an exclusive beverage/vending agreement with The American Bottling Company/Dr Pepper Snapple Group.
- Although not everyone in the District likes the products distributed by this company, no product or service issues have arisen during this five year agreement.
- District staff contacted Coca Cola company representatives to gauge their interest in considering a relationship with the District and they were not interested.
- When comparing the prior agreement to the new agreement being presented to you this evening, the primary differences are an increased annual payment to the District along with the addition of a rebate to the District based on each case of product purchased.
- For your review and consideration, following is the new Exclusive License and Supplier Agreement with The American Bottling Company/Dr Pepper Snapple Group.

FISCAL NOTE:

Annual \$13,000 payment to the District, plus commissions and rebates based on sales/purchases.

ADMINISTRATIVE RECOMMENDATION:

The Administration recommends the Board of Trustees approve the Exclusive License and Supplier Agreement with The American Bottling Company/Dr Pepper Snapple Group as presented.



Exclusive License and Supplier Agreement

Exclusive License and Supplier Agreement ("Agreement") made and entered into effective June 1, 2016, by and between Aledo ISD at 1008 Bailey Road, Aledo, Texas 76008 ("School") and The American Bottling Company at 2304 Century Center Boulevard, Irving, TX ("Company").

In consideration of the mutual covenants and agreements herein contained, the parties do agree as follows:

1. **Definitions.**

1.1. "Beverages" means all soft drinks, carbonated and noncarbonated, including isotonic beverages (ready to drink and powdered), bottled water, ready-to-drink tea and juice products.

1.2. "Contract Year" means each twelve (12) month period commencing June 1, 2016.

1.3. "Events" means all events and/or meetings associated with or conducted in connection with School, including, without limitation, PTA groups, booster clubs, and any organizations sponsored by School.

1.4. "Marks" means "Dr Pepper" and "Seven Up," the Dr Pepper and Seven Up designs, the Dr Pepper and Seven Up marks, and any other trademarks owned and/or approved for use by Company.

1.5. "District" means all School existing or future campuses, facilities, food service areas, and concessions.

2. **License.** Company is granted the exclusive right and privilege for a period of five (5) years commencing June 1, 2016 and ending May 31, 2021 with an option, if mutually agreed upon, to extend an additional (5) years starting June 1, 2021 till May 31, 2026 to sell Beverages through automatic vending machines ("Machines") within the District at such locations within the District as are mutually agreed upon by the parties hereto. Further, Company shall have the exclusive right to supply Beverages at all Events. In such cases, Company shall provide the necessary equipment to dispense Beverages.

3. **Installation and Service.** All Machines shall remain and/or be installed by Company at its expense, and shall be placed, maintained and serviced by Company so as to ensure that such Machines are kept in good working order and condition, are clean and sanitary. The Machines must remain operable during school hours and during all school functions as allowed by law. The Machines shall not be disengaged or "powered down" as a means of disciplining the student body in any way. The parties agree that the location of all Machines shall be set out in the

attached Exhibit B and shall not be changed without mutual consent of the parties. As to any new facility, the location and number of Machines will be no less in number and comparable in position to an existing and comparable grade or school.

4. **Consideration. Company will pay District \$13,000 within sixty (60) days of the signing of the agreement. Company will pay District \$13,000 in years 2 – 5 each year starting July 1, 2017.**

By the 20th of each month, Company shall furnish to School a statement of all Beverages sold in the District. Together with such statement, Company will pay School the total commissions for all Beverages sold during such month, computed on the basis of the applicable commissions set forth in Schedule A attached hereto and fully incorporated herein by reference. Should prices for Beverages increase during the term of this Agreement, the commission percentages shall remain the same as set forth in Schedule A and shall apply to the changed price, unless otherwise agreed to by mutual agreement of the parties. The prices of Beverages sold or distributed in Machines will be as set forth in Schedule A attached to this Agreement.

Company will also pay a rebate of \$1.00 for each case of product purchased from Company for sales by Booster Clubs, Concessions, and Food Service at the facilities.

Company will donate annually 300 cases of water / or 12oz Carbonated soft drinks.

5. **Taxes.** The commissions set forth herein are based upon federal, state, and city sales and excise taxes existing at the date of the execution of this Agreement. If any change is made in such taxes, such commissions shall, from time to time, be adjusted to compensate for such change in a manner mutually satisfactory to the parties. The liability for the payment of such taxes shall be upon DPSG.

6. **Termination and Continuation.**

6.1. If either party defaults and/or breaches its performance of any obligations provided for in this Agreement, the other party may terminate this Agreement by giving written notice of default unless such default and/or breach is cured within thirty (30) days from the date of notice. If the default and/or breach is not cured within said thirty (30) day period, this Agreement shall be automatically terminated at the expiration of said thirty (30) days.

6.2. Upon termination or expiration of this Agreement, School thereafter shall immediately cease and desist from all use of the Marks in any way except for existing advertising. Furthermore, School will at no time during and after termination of this Agreement adopt or use, without Company's prior written consent, any work, mark or design which is similar to or likely to be confused with the Marks. This restriction shall survive termination of this Agreement.

7. **Entire Agreement.** This instrument contains the entire agreement between the parties hereto and supersedes any other agreements between Company and any schools within the Territory. There are no agreements, oral or written, which are not expressly included herein. All prior agreements between the parties written and oral are terminated on execution of this Agreement. The terms and provisions of this Agreement shall not be altered, amended, waived, modified or terminated, except by agreement in writing, signed by the parties.

8. Authorization. The ratification and authorization of this Agreement is evidenced by the certified copy of the Minutes of the Board of Trustees of School approving same and its execution by the President of the Board of Trustees, as set forth as Exhibit A, attached hereto and fully incorporated herein by reference.

9. Reservation of Right. _____ acknowledges and agrees that the School does not waive any immunity from tort liability to which it its elected officials or employees may be entitled as a Texas independent school district, and the Company reserves the right to assert any defenses with respect to such immunity from tort liability to which it may be entitled under the law of the State of Texas.

(“School”): Aledo Independent School District

By: _____
(Signature)

Its: Jay Stringer, President, Board of Trustees

(“Company”): The American Bottling Company

By: _____
(Signature)

Its: _____

Schedule A

PRICING

Full Service Vending Prices

20 oz CSD and Bottled Water	\$1.25	30% Commission
12 oz CSD Cans	\$0.75	30% Commission

Concession Stand Prices & Food Service

Prices for period June 1, 2016

Prices for other products available upon request

Prices subject to change annually

20oz CSD	\$19.00/ case
12oz CSD Cans	\$ 7.75/case
5 gallon BIB	\$67.30/bag
2.5 gallon BIB	\$35.08/bag
20oz Deja Blue Water	\$12.00/case
12oz Deja Blue Water	\$ 6.40/case
16oz Body Armor	\$15.50/case
20oz Snapple Tea	\$15.50/case

Dr Pepper will pay Aledo ISD a sponsorship payment of \$13,000 per year for this (5) five year agreement. Payment will be made each year by July 1st.

Company will also pay a rebate of \$1.00 for each case of product purchased from Company for sales by Booster Clubs, Concessions and Food Service at the facilities.

Rebate will be paid once a year by July 31, for previous school year sales. Rebate will start with 2016-2017 school year.

Company will donate annually 300 cases of water / or 12oz Carbonated soft drinks

Exhibit A

Certified Minutes of
the Board of Trustees of
School District

Exhibit B

Location of Full-Service Vending Machines
Available on Request