



SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

Agenda Item Summary

Meeting Date: November 16, 2016

Purpose:  Report Only  Recognition  Discussion/ Possible Action

Presenter(s): Michael Balderrama, Chief of Staff

Item Title:

Approve the Memorandum of Understanding between South San Antonio ISD and the Alamo Community College District for the Learn to Swim program.

Description:

Palo Alto College will provide the "Learn to Swim" program for all second grade students in South San Antonio ISD, which will include swim instructions, aquatic supervision and awards.

District Goal:

Goal 6 We will promote and ensure a safe and secure learning environment for all students.

Funding Budget Code and Amount:

CFO Approval

Empty table for funding and CFO approval.

APPROVAL ROUTE

SIGNATURE

DATE

Principal/Director:

Executive Director:

Chief Administrator:

Superintendent:

Handwritten signatures of Michael Balderrama and another official.

Handwritten dates: 11/7/16 and 11-10-2016



**MEMORANDUM OF UNDERSTANDING BETWEEN  
ALAMO COMMUNITY COLLEGE DISTRICT  
AND  
SOUTH SAN INDEPENDENT SCHOOL DISTRICT**

This Memorandum of Understanding (“Agreement”) is entered into by and between Alamo Community College District, a public junior college district and a political subdivision of the State of Texas, on behalf of Palo Alto College (hereinafter referred to as “Alamo Colleges”) and South San Antonio Independent School District (hereinafter referred to as “Co-Party”), collectively sometimes referred to herein as “the Parties.”

**WHEREAS**, Alamo Colleges is a public junior college district comprised of district services offices and five colleges, San Antonio College, St. Philip’s College, Palo Alto College, Northwest Vista College, and Northeast Lakeview College; and

**WHEREAS**, the Parties wish to establish the contractual relationship described at **Exhibit A** hereto (“Project”)

**NOW THEREFORE**, in consideration of the mutual agreements set forth herein, Alamo Colleges and Co-Party agree to the following Terms and Conditions:

**TERMS AND CONDITIONS**

1. **ALAMO COLLEGES’ OBLIGATIONS.** Alamo Colleges agrees to perform its responsibilities described in **Exhibit A**.
2. **CO-PARTY’S OBLIGATIONS.** Co-Party agrees to perform its responsibilities described in **Exhibit A**.
3. **THE PARTIES’ JOINT OBLIGATIONS.** Both Parties agree that:
  - 3.1 They shall comply with all applicable provisions of all federal and state laws and regulations, including any applicable Executive Orders, applicable to the operation of Alamo Colleges and the Project, including, without limitation, employment-related statutes and education-related statutes such as the Family Education Rights and Privacy Act (20 USC §1232g) and implementing regulations (34 CFR Part 99) (“FERPA”). Any exchange by the parties of student record information protected by FERPA shall commit the receiving party to limit the use of such information to the purposes for which the disclosure was made, and to impose such limits on any re- disclosure, and the parties agree to comply with all applicable statutory and regulatory provisions, including, without limitation 34 CFR 99.31, 99.32, 99.33, 99.34 and 99.35. *The Parties agree to abide by a Alamo Colleges’ policies* prohibiting discrimination, harassment, and retaliation on the basis of any legally protected criteria, including, without limitation, race, color, gender/sex, sexual preference, religion, age, disability, genetic information, national origin, veteran status or political affiliation. The Parties agree not to deny or discriminate on the basis of any legally protected criteria in the provision of any service or benefit, including, without limitation, access to any educational program or use of any facility. The parties agree to abide by all of one another’s applicable policies, including, without limitation, those relating to financial ethics and accountability.

3.2 If any aspect of the Project is funded by one or more grants (“Grant”), the parties shall retain appropriate records for a period of at least five (5) years after the conclusion of the Term of this Agreement, and any obligations of the non-Grant-recipient Party pertaining to the Grant are set forth in **Exhibit A** to this Agreement.

4. **TERM AND TERMINATION.**

4.1 This Agreement shall commence on the Effective Date and continue for the term respectively stated in **Exhibit A**. Either Party may terminate this Agreement, with or without cause, by providing the other a minimum of sixty (60) days prior written notice of its intent to terminate. Termination shall be effective on the later of the date so noticed or the next semester end.

5. **MISCELLANEOUS.**

5.1 **Notices.** All notices given pursuant to this Agreement shall be in writing and shall either be mailed by first class mail, postage prepaid, registered or certified with return receipt requested, or delivered in person to the intended addressee, or sent by fax or overnight delivery service. Notice mailed shall be effective on mailing. Notice given in any other manner shall be effective on receipt. For purposes of notice, the addresses of the Parties shall be as stated in **Exhibit A**, provided, however, that each Party shall have the right to change its address for notice hereunder to any other location by the giving of 10 days’ notice to the other Parties in the manner set forth above.

5.2 **Governing Law.** This Agreement shall be governed by and construed in accordance with the substantive federal laws of the United States and the internal laws and Constitution of the State of Texas.

5.3 **Successors and Assigns.** This Agreement shall be binding on and shall inure to the benefit of the Parties, and their respective heirs, legal representatives, successors and assigns. This Agreement may not in total or part be assigned or transferred directly or indirectly to another subsidiary/agency without sixty (60) days prior written notice, delivered to the other Party at its notice address herein set forth, and the consent of the non-assigning party, which shall not be unreasonably withheld.

5.4 **Entire Agreement.** This Agreement, and any exhibits or addenda attached, contain the entire agreement among the Parties relating to the subject matter hereof, and all prior agreements relative hereto which are not contained herein are terminated. Any and each Exhibit to this Agreement is incorporated herein for all purposes.

5.5 **Amendments.** Amendments or modifications may be made to this Agreement only in writing and duly executed by the Parties.

5.6 **Force Majeure.** Any party shall be temporarily excused from performance otherwise due hereunder only to the extent that, and for so long as, such performance is rendered impossible by reason of factors beyond that party’s control and not occasioned by the negligence of the party or its affiliates, including, but not limited to, acts of God. Any party experiencing or anticipating a force majeure event shall promptly notify the other party in writing thereof.

5.7 **Severability.** It is intended this Agreement to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of such invalidity or unenforceability does not destroy the basis of the bargain among the Parties as expressed

herein, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

- 5.8 Gender and Number.** Whenever required by the context, as used in this Agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.
- 5.9 Captions.** The Section and Subsection headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent or for any purpose, to limit or define the text of any Section or Subsection.
- 5.10 Counterparts.** This Agreement may be executed in counterparts, each one of which shall be an original, and different parties may sign different counterparts, all of which shall constitute but one document.
- 5.11 Drafters.** Each Party to this Agreement has been afforded the opportunity to negotiate the terms of this Agreement, and to consult legal counsel regarding same; therefore, the Parties waive and disclaim the application of any principle of contract interpretation that would construe any ambiguity herein against either Party as drafter hereof.
- 5.12 Annual Review.** This Agreement shall be evaluated and reviewed annually by the Parties for the purpose of making any agreed revisions that may be deemed advisable or necessary.
- 5.13 No Third Party Beneficiaries.** Unless otherwise expressly specified elsewhere herein, nothing in this Agreement shall be construed as creating or giving rise to any rights in any third parties, including, but not limited to any faculty or students of Alamo Colleges, or any persons other than the Parties.
- 5.14 Independent Contractors.** The Parties understand and agree that each performs tasks, the details of which the other does not have legal right to control and no such control is assumed by this Agreement. This Agreement does not create an employment relationship, partnership, or joint venture between the parties or their employees. Neither party nor its employees shall be deemed employees of the other for any purpose whatsoever, nor shall they be eligible to participate in any benefit program provided by the other. The Parties further agree that nothing in this Agreement shall be construed to create a borrowed servant, joint employment or leased employee status.
- 5.15 Release of Information.** Alamo Colleges is a governmental entity in the State of Texas. Documents submitted pursuant to this Agreement become a government record. Access by the public to government records is governed by the Texas Public Information Act ("PIA"). In the event a request is made for information designated as proprietary, Alamo Colleges may determine in its sole discretion whether sufficient legal justification exists for withholding the information and whether an opinion should be requested from the Texas Attorney General. If an opinion is requested from the Texas Attorney General, Alamo Colleges will notify Co-Party, in accordance with PIA, to assert any arguments Co-Party may have in opposition to release of the information. In the event Co-Party requests judicial intervention, the party so requesting shall indemnify Alamo Colleges for its costs (including attorney's fees) associated with the judicial action. Under no circumstances will Alamo Colleges be liable for any costs, damages, or claims of any nature, related to release or disclosure of any information contained in documents submitted pursuant to this Agreement.
- 5.16 Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising out

of or relating to this Agreement, the parties agree to do all of the following before commencing legal action. First, the parties shall use their best good-faith efforts to settle such disputes, claims, questions, or disagreement. To this effect they shall first consult and negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties. If such consultation and negotiation does not fully resolve the issue, the parties agree to promptly engage in non-binding mediation in Bexar County, Texas. If such mediation does not fully resolve the issue, then either party may thereafter seek legal recourse in equity and/or at law. Notwithstanding the foregoing, either party may commence litigation for injunctive relief without having complied fully with these dispute resolution procedures, but only to require the other party to mediate, to preserve the status quo pending resolution of an issue, or to protect a vital interest of that party or of an affiliate. The parties hereby stipulate to the non-exclusive jurisdiction and venue of the courts of competent jurisdiction sitting in the counties of their respective principal places of business for any matter related to the Agreement.

**Intending to be bound, the Parties sign below.**

**ALAMO COMMUNITY COLLEGE DISTRICT  
(Alamo Colleges):**

**CO-PARTY:**

By: \_\_\_\_\_  
Chancellor/President/VPCS                      Date


By: \_\_\_\_\_  
Signature    Date

Print Name: Dr. Beatriz Joseph\_

Print Name: \_\_\_\_\_

Title: VP College Services Palo Alto College\_

Title: \_\_\_\_\_

APPROVED  
AS TO FORM ONLY  


ATTACHMENT:            Exhibit A, Project Details

**EXHIBIT A TO MEMORANDUM OF UNDERSTANDING  
Between ALAMO COMMUNITY COLLEGE DISTRICT And  
SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT (“Co-Party”)**

1. ALAMO COLLEGES PARTY: Palo Alto College
2. EFFECTIVE DATE / TERM: September 1, 2016 / August 31, 2017\_
3. NOTICES:

Notices to Alamo Colleges:

Palo Alto College  
Att'n: Shanea Allen, MSRLS, Natatorium & Gym Supervisor\_  
1400 W. Villaret  
San Antonio, TX 78224  
Tel: O: 210.486.3803  
Email: [sallen83@alamo.edu](mailto:sallen83@alamo.edu)

Notices to Organization:

Dr. Beatriz Joseph  
Vice President of College Services  
Palo Alto College  
1400 W Villaret Blvd., San Antonio TX, 78224  
Tel: 210-486-3936  
Email: [ijoseph@alamo.edu](mailto:ijoseph@alamo.edu)

Notices to Co-Party:

\_South San Antonio Independent School District\_  
\_Att'n: Dr. Abelardo Saavedra\_  
\_5622 Ray Ellison\_  
\_San Antonio, Texas 78242\_  
Tel: \_210-977-7020\_  
Email: \_

4. INVOICES TO ALAMO COLLEGES OR CO-PARTY:  
Organization: \_\_\_\_\_ South San Antonio Independent School District \_\_\_\_\_  
Att'n: CFO Jesus Salazar \_\_\_\_\_  
Street Address: \_5622 Ray Ellison \_\_\_\_\_  
City/State Zip: \_ San Antonio, Texas 78242 \_\_\_\_\_  
Email: \_\_\_\_\_

5. PROJECT DETAILS: Palo Alto College will provide “Learn to Swim” instruction for all ISD second grade students, which will include swim instruction, aquatic supervision, facilities, and awards. ISD will be responsible for the cost of the program, which shall be \$48.77 per child enrolled. ISD must provide 1 responsible adult per bus load of students to supervise & manage students. Make ups will not be offered or refunded