LOH
3/5/15
Item No. 14

AN ORDINANCE 2015-03-05-0160

APPROVING THE RENEWAL OF A SETTLEMENT AGREEMENT FOR A FIFTEEN-YEAR TERM EFFECTIVE APRIL 1, 2016; AND APPROVING AN INTERLOCAL AGREEMENT FOR A TWO-YEAR TERM EFFECTIVE SEPTEMBER 1, 2015, WITH THE ALAMO COMMUNITY COLLEGE DISTRICT TO ADMINISTER FUNDS FOR EDUCATION AND TRAINING PROGRAMS.

* * * * *

WHEREAS, in March 2001, City Council authorized the City to enter into a 15-year Settlement Agreement with ACCD pursuant to *City of San Antonio vs. Alamo Community College District*, which established an escrow account for the City's 14% share of CPS revenue collected from ACCD's monthly natural gas and electrical billings and which Settlement Agreement expires on March 31, 2016; and

WHEREAS, the Settlement Agreement is administered through an Interlocal Agreement between the City and ACCD, which expires on August 31, 2015 and sets forth the specific manner in which the funds are spent; and

WHEREAS, staff recommends renewal of the Settlement Agreement for an additional fifteen year period effective April 1, 2016, and renewal of the Interlocal Agreement with ACCD for a two-year term from September 1, 2015 through August 31, 2017; and

WHEREAS, staff also seeks approval of a 12-month estimated budget of $1,105,360, based on estimated future CPS Energy revenues and existing carryover funds, and recommends approval of administrative authority to adjust the budget and programs funded through the Interlocal Agreement for the period of September 1, 2016 through August 31, 2017, in consultation with the City Council Economic and Community Development Committee; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council approves renewal of the *City of San Antonio vs. Alamo Community College District* Settlement Agreement included as **ATTACHMENT I** for a fifteen-year term effective April 1, 2016.

SECTION 2. The Interlocal Agreement with the Alamo Community College District (ACCD) included as **ATTACHMENT II**, which administers funding from the Settlement Agreement approved in Section 1 for education and training programs, is approved for a two-year term, effective September 1, 2015.

SECTION 3. The estimated budget for the Interlocal Agreement for the period of September 1, 2015 through August 31, 2016, is approved as follows:

Alamo Academies (AAAA, ITSA, ATMA, HPA, HEA)	$476,910
Training for City Employees (HR)	$457,350
Mentor-Protégé/Bonding Assistance Program (EDD)	$88,600
Training for Job Success Scholarships (DHS)	$70,000
Financial Review and Procedures Audit*	$12,500
TOTAL	**$1,105,360**
*Budgeted $12,500 for FY 2015	

SECTION 4. The Director of the Economic Development Department is authorized to adjust the budget and programs funded through the Interlocal Agreement approved in Section 2, for the period of September 1, 2016 through August 31, 2017, in consultation with the Economic and Community Development Committee

SECTION 5. This Ordinance shall be effective on the tenth day after passage.

PASSED AND APPROVED this 5th day of March, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Agenda Item:	**14 (in consent vote: 6, 7, 8, 9, 10, 11, 12, 13, 14, 15)**
Date:	03/05/2015
Time:	03:01:31 PM
Vote Type:	Motion to Approve
Description:	An Ordinance approving the renewal of a Settlement Agreement for a fifteen-year term effective April 1, 2016; and approving an Interlocal Agreement for a two-year term effective September 1, 2015, with the Alamo Community College District to administer funds for education and training programs. [Carlos Contreras, Assistant City Manager; Rene Dominguez, Director, Economic Development]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x			x	
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Attachment I

SETTLEMENT AGREEMENT

WHEREAS, in 1987, the Fourth Court of Appeals in City of San Antonio v. Alamo Community College District, rendered judgement in favor of the City of San Antonio ("**CITY**") requiring the Alamo Community College District ("**ACCD**") to pay that portion of their electric and natural gas service bills destined to be paid to the City; and

WHEREAS, in the spirit of cooperation, the parties have agreed to a release, and an expenditure of a portion of the Proceeds to establish a High Technology Center to be utilized in furtherance of **CITY'S** Economic Development Strategies and Workforce Development; and

WHEREAS, the parties have also agreed to the establishment of an Account and expenditure of Proceeds therein to provide customized training, classroom hours, books and materials for **CITY** employees, various **CITY** designated programs and for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development subject to the terms established herein; and

WHEREAS, the parties have attached an Interlocal Agreement between the **CITY** and **ACCD** for the purpose of memorializing the parties intent as to the annual implementation and administration of the customized training classroom hours and materials to **CITY** employees, various **CITY** designated programs and for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development, which is attached as Exhibit "A" and is hereby incorporated into this Agreement for all purposes; and

WHEREAS, the parties wish to memorialize their mutual assent by means of this Agreement; **NOW THEREFORE:**

The City of San Antonio (hereinafter referred to as **"CITY"**), acting through its City Manager, Alexander E. Briseño, pursuant to Ordinance No. 93625, passed and approved March 22, 2001, and the Alamo Community College District (hereinafter referred to as **"ACCD"**), acting through its Chancellor, Robert W. Ramsay, pursuant to the minute order, passed by the **ACCD** Board of Trustees on February 20, 2001, which the parties covenant and agree as follows:

I.
DEFINITIONS

1.1 The term "**ACCD**" as used herein shall refer to the Alamo Community College District.

1.2 The term "Account" as used herein shall refer to that account that consists of Proceeds and is established to be used in connection with this Agreement.

1.3 The term "Administrative Costs" means reasonable costs directly incurred by **ACCD** related to this agreement. These costs include, but are not limited to, costs and expenses for administration and implementation of this Agreement.

1.4 The term "Building Account" as used herein shall refer to that account established to be used in connection with the establishment of a high-technology center, as further described by Section II. Building Account.

1.5 The term "**CITY**" as used herein shall refer to the City of San Antonio.

1.6 The term "CPS" as used herein shall refer to the City of San Antonio City Public Service, or its successor in interest.

1.7 The term "High Technology Center" as use herein shall refer to a facility that will be used to train **CITY** employees, various **CITY** designated programs, or for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development.

1.8 The term "Proceeds" as used herein shall refer to fourteen percent (14%) of the electric and natural gas charges billed by City Public Service to the Alamo Community College District, which may otherwise be referred to as "Funds"

II.
BUILDING ACCOUNT

2.1 The parties acknowledge and agree that **ACCD** has maintained a portion of Proceeds in a Building Account with a Bank in the City of San Antonio, at it's sole cost and expense, through December 31, 1999, having a balance of $2,981,571.92.

2.2 The parties agree that such amount having accrued in said Building Account, as mentioned above in subsection 2.1, shall be utilized by **ACCD** for establishing a high-technology center, which may include, but not be limited to, finish-out, improvements and purchase of equipment at Building 210 located on the premises of Kelly AFB, or other equivalent facility so long as such facility is used for the purpose of providing customized training, or college hours to **CITY** employees, various designated **CITY** programs, or for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies or Workforce Development.

2.3 **ACCD,** no later than June 1, 2002, shall provide **CITY** with a budget for the establishment of the high-technology center, which may include, but not be limited to, finish-out, improvements and purchase of equipment at Building 210 or other equivalent facility as provided by subsection 2.2. **ACCD** shall provide an accounting to **CITY,** through its Director of Finance at 506 Dolorosa, San Antonio, Texas 78205, sent in accordance with Section XIII. Notice, of all monies used in connection with the establishment of the high technology center every month during the construction of said finish-out and improvements, and purchase of equipment, as applicable. The total of all **CITY's** contribution to said establishment of the high-technology center, which may include, but not be limited to finish-out, improvements and purchase of equipment, shall be limited to the total as established in subsection 2.1.

2.4 **ACCD** shall forward to **CITY** any and all plans for the finish-out and improvements of Building 210 or equivalent facility, as provided for in subsection 2.2, no later than fourteen (14) days before **ACCD** commences said finish-out and improvements, if applicable. **CITY** shall have the right to review said plans. All plans submitted to **CITY** for its review shall comply with all applicable Building Codes.

2.5 No later than the tenth (10th) day of every month during construction or finish-out, **ACCD** shall provide an accounting to **CITY,** through its Director of Finance at 506 Dolorosa, San Antonio, Texas 78205, sent in accordance with Section XIII. Notice, of the Building Account used in connection with the establishment of a high-technology center.

2.6 In the event that the amount established in subsection 2.1 are not expended in connection with the establishment of a high-technology center, including, but not limited to, finish-out, improvements

and purchase of equipment at Building 210, or other equivalent facility, **CITY** and **ACCD** agree to meet and confer regarding the expenditure and designation of the remaining amount.

2.7 In the expenditure of the Building Account, as provided for in subsection 2.2, **ACCD** shall comply with all applicable local, state and federal laws, rules and regulations

III.
EDUCATION AND TRAINING ACCOUNT

3.1 Effective April 1, 2001, **ACCD** shall establish an Account pursuant to this Section, as described below. **ACCD** shall deposit in said Account an amount equal to approximately $415,853.00, that amount which has accrued from January 1, 2000 through the commencement date of this Agreement.

3.2 Commencing April 1, 2001 and throughout the term of this Agreement, pursuant to the provisions contained herein, **ACCD** also agrees to deposit and maintain in said Account, fourteen percent (14%) of its monthly electric and natural gas billed by City Public Service to **ACCD**, otherwise referred to as Proceeds, plus interest and investment earnings, to be utilized to provide classroom hours, customized training to **CITY** employees and various **CITY** designated programs or for any other lawful purpose in furtherance of the **CITY'S** Economic Development Strategies and Workforce Development as established in the Interlocal Agreement (Exhibit A).

3.3 **ACCD** shall maintain the Proceeds, interest and investment earnings in the Account, which shall be separate and apart from its other accounts, including, but not limited to the Building Account described in Subsection II. Building Account, above, at a Bank in the City of San Antonio, at its sole cost and expense. The Account shall be maintained by **ACCD** so long as this Agreement is in effect or so long as the Proceeds plus interest and investment earnings remain unused by **CITY**, whichever is later. All Proceeds plus interest and investment earnings maintained in said Account shall be appropriately safeguarded and secured by FDIC and eligible security, in accordance with the Texas Public Funds Collateral Act. All Proceeds plus interest and investment earnings shall be invested by **ACCD** in accordance with the Texas Public Funds Investment Act, as amended.

3.4 The parties agree that all such amounts and Proceeds, interest and investment earnings in said Account accruing from January 1, 2000, through March 31, 2016 shall be used for the provision by **ACCD** to **CITY** of college hours, customized training, for **CITY** employees and various programs designated by **CITY** or for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development.

3.5 The parties agree that **CITY** is not required to use any specific amount of college hours, training, books, or materials in any given semester or year, and that all Funds in the Account, including but not limited to, Proceeds plus interest and investment earnings, will be maintained by **ACCD** in the Account until all sums are used by, **CITY** in accordance with Subsection 3.2 and the Interlocal Agreement (Exhibit A).

IV.
ACCOUNTING FOR DEPOSITS

4.1 At the end of each quarter -- March 31st, June 30th, September 30th and December 31st -- of each and every year during the term of this Agreement, **ACCD** shall provide to **CITY**, through its Director of Finance at 506 Dolorosa, San Antonio, Texas 78205, in accordance with Section XIII. Notice, an accounting of the Account established pursuant to Subsection 3.1 of this Agreement. **ACCD** shall

provide a copy of the monthly bank statement pertaining to this Account; **ACCD's** CPS monthly analysis statement; its calculation of the 14% attributable to **CITY**; and interest and investment earnings for the quarter.

V.
AUDIT OF RECORDS

5.1 In the event a dispute arises between **CITY** and **ACCD** regarding whether certain college hours were taken, training was provided, certain books and materials were used, the costs used to calculate the amount to be withdrawn from the Account under Section III. Education and Training Account and the Interlocal Agreement, which is attached as Exhibit "A" or generally regarding the utilization and expenditure of Funds, **ACCD** shall procure the services of an independent, third party Certified Public Accountant to audit the Education and Training Account, created pursuant to Section III, and all records maintained in connection with this Agreement. Such audit shall commence no later than thirty (30) days from the date of notice of said dispute. Any portion of the Account in dispute shall be maintained in the established Account until the dispute has been resolved as a result of said audit.

5.2 In the event either party wishes to terminate this Agreement, in addition to all the requirements herein established, **ACCD** shall procure the services of an independent, third party Certified Public Accountant, to audit the Education and Training Account, created pursuant to Section III., and all records maintained in connection with this Agreement. Such audit shall commence no later than thirty (30) days from the date of receipt of notice of termination.

5.3 The cost of the audit(s) required by subsections 5.1 and 5.2 may be paid out of the Education and Training Account.

5.4 **ACCD** shall maintain said records, documents and accounting records at its main office and shall make such records, documents and accounting records available to **CITY**, during **ACCD's** regular business hours, as often as **CITY** deems necessary, for purposes of auditing, above and beyond that allowed or required by subsection 5.1, inspecting or making copies of same by **CITY** or its designated representative(s), subject to a student's consent, as required by law.

VI.
RECORD RETENTION

6.1 **ACCD** shall retain all records, documents and accounting records created or pertaining, directly or indirectly, to this Agreement, including, without limitation, records of the account established pursuant to this Agreement, throughout the term of this Agreement, and for the longer of that period which **CITY** or **ACCD** is required to retain such documents, as established by the Texas State Library and Archives Commission. Upon conclusion of such period **ACCD** agrees to make copies, at the **CITY's** request, of all such records, documents and accounting records for **CITY** or its designated representative, that have not been furnished previously pursuant to this Agreement or by the Interlocal Agreement, subject to a student's consent, as required by law and if applicable, at no additional cost to **CITY**.

VII.
ADMINISTRATIVE COSTS

7.1 Once the high-technology center is established pursuant to Section II. Building Account, **CITY** recognizes that **ACCD** will receive use of such Proceeds to reimburse **ACCD** for its Administrative

Costs to administer and implement the Interlocal Agreement payable in arrears quarterly. The parties agree and understand that under no circumstance shall Administrative Costs in the aggregate, exceed eighty thousand dollars ($80,000.00) each year for the first three years of this Agreement. At the end the third year the parties agree that they will meet and confer regarding the use of Proceeds for **ACCD's** Administrative Costs to administer and implement the Interlocal Agreement for the remainder of the term of this Agreement.

VIII.
RELEASE

8.1 That for and in consideration of the aforementioned recitals and other good and valuable consideration the **CITY** agrees to release, acquit, and forever discharge **ACCD**. Their current and former agents, servants, employees, representatives, successors, assigns and attorneys, all and each of them from payment of all or any portion of the up to fourteen percent (14%) of the electric and natural gas charges billed by City Public Service to the Alamo Community College District that the **CITY** asserts is due it or has asserted it is due in the past and future in the case styled City of San Antonio v. Alamo Community College District, Cause No 83-CI-20386 in the 288th District Court of Bexar County, Texas.

IX.
ASSIGNABILITY

9.1 **ACCD** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **CITY**. In the event **ACCD** assigns any interest or right in this Agreement without the prior written consent, all Proceeds, interest and investment earnings remaining unused by **CITY** shall be remitted to **CITY**, in cash, upon written notice by **CITY** to **ACCD**; and Proceeds, plus interest and investment earnings, which would otherwise have been deposited in the Account for use by **CITY** in connection with this and the Interlocal Agreements, shall be paid directly to **CITY**, on an annual basis, for the balance of the 15-year term hereof.

9.2 **CITY** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **ACCD**.

X.
AMENDMENT

10.1 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties, and approved by subsequent City Council and **ACCD** Board approval.

XI.
TERM

11.1 The term of this Agreement shall be for a period of fifteen (15) years, and shall commence April 1, 2001 and terminate March 31, 2016. The Agreement shall automatically renew every year thereafter, without notice and without further action by **CITY** or **ACCD**, unless this Agreement is terminated pursuant to any of its provisions.

11.2 During year twelve (12) of the initial 15-year term, the parties agree to meet and confer regarding the utilization and expenditure of Funds pursuant to this Agreement. Either party may provide notice to the other party in accordance with Section XIII, Notice, to initiate said conference.

XII.
TERMINATION

12.1 In the event **CITY** terminates this Agreement prior to the expiration of the 15-year term, the parties agree to meet and confer regarding the utilization and expenditure of Proceeds.

12.2 In the event **ACCD** terminates this Agreement prior to the expiration of the 15-year term, all Proceeds, interest and investment earnings remaining unused by **CITY** shall be remitted to **CITY,** in cash, upon written notice by **CITY** to **ACCD**; and Proceeds, interest and investment earnings which would otherwise have been deposited in the Account for use by **CITY** in connection with this Agreement, shall be paid directly to **CITY**, on an annual basis, for the balance of the 15-year term hereof.

XIII.
NOTICE

13.1 Unless specifically provided for otherwise, any notice required or permitted to be given under this Agreement shall be given in writing and sent certified mail, return receipt requested, postage prepaid to **CITY** or **ACCD** at the addresses set forth below, or to any other address of which written notice of change is given:

CITY OF SAN ANTONIO

City of San Antonio
Attention: Mr. Ramiro Cavazos
Director, Economic Development Department
P.O. Box 839966
City Hall, 4th Floor
San Antonio, Texas 78283-3966

City of San Antonio
City Clerk's Office
100 Military Plaza
San Antonio, Texas 78205

and

ALAMO COMMUNITY COLLEGE DISTRICT

Dr. Robert W. Ramsay
Chancellor
201 W. Sheridan, Building B
San Antonio, Texas 78204-1429

XIV.
AUTHORITY

14.1 The signer of this Agreement for **ACCD** represents and warrants that he has full legal authority to execute this Agreement on behalf of **ACCD** and to bind **ACCD** to the terms and conditions herein contained.

14.2 The signer of this Agreement for **CITY** represents and warrants that he has full legal authority to execute this Agreement on behalf of **CITY** and to bind **CITY** to the terms and conditions herein contained.

XV.
CAPTIONS

15.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XVI.
ENTIRE AGREEMENT

16.1 This Agreement, together with its authorizing ordinance, minute order, and Exhibit A constitute the final and entire agreement between the parties and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto unless same be executed in accordance with Section XII, Amendment.

XVII.
SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision had not been contained herein. It is also the intention of the parties hereto that in lieu of such clause or provision in this Agreement that is invalid, illegal or unenforceable, there be added as a part of the Agreement, a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

IN WITNESS WHEREOF, I hereby execute this document on the ___ day of _____, 2001.

CITY OF SAN ANTONIO

for James A. Gonzalez

Alexander E. Briseño,
City Manager

Approved as to Form:

Frank J. Garza,
City Attorney

STATE OF TEXAS)(
COUNTY OF BEXAR)(

BEFORE ME, the undersigned authority, on this day personally appeared _____ and _____ known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that each of them executed same for the purpose herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2nd day of May, 2001.

Barbara G. Trevino
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

BARBARA G. TREVINO
NOTARY PUBLIC
State of Texas
Comm. Exp. 02-18-2002

My Commission Expires:

02-18-2002

STATE OF TEXAS)(
COUNTY OF BEXAR)(

BEFORE ME, the undersigned authority, on this day personally appeared _____ and _____ known to me to be the persons whose names subscribed to the foregoing instrument and acknowledged to me that each of them, executed same for the purpose herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27 day of March, **2001.**

Debra A. Martinez
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

DEBRA A. MARTINEZ
MY COMMISSION EXPIRES
August 3, 2003

My Commission Expires:

August 3, 2003

IN WITNESS WHEREOF, I hereby execute this document on the 27 day of March, 2001.

ALAMO COMMUNITY COLLEGE DISTRICT

_____
Dr. Robert W. Ramsay,
Chancellor

Approved as to Form:

_____
Robert W. Wilson,
Attorney for the Alamo Community College District

Attachment II

INTERLOCAL AGREEMENT BETWEEN ALAMO COLLEGES AND CITY

This Agreement is entered into by and between the City of San Antonio (hereinafter referred to as "**CITY**"), acting by and through its City Manager or her designee, pursuant to Ordinance No. 2015-03-05-_____ passed and approved on March 5, 2015, and the Alamo Community College District doing business as Alamo Colleges (hereinafter referred to as "**AC**") acting by and through the Chancellor or designee, pursuant to the minute order passed by the **AC** Board of Trustees on _____ ____, 2015, (collectively, the "Parties") having agreed, through the Settlement Agreement, attached hereto and incorporated herein for all purposes as Exhibit I, to establish an Account to provide customized training and college hours to **CITY** employees and various designated **CITY** programs and for any other lawful purpose in furtherance of **CITY'S** Economic Development Strategies and Workforce Development, and agree that same shall be administered and implemented as described below. Staff is recommending the following budget and funding for the following programs and further, for those programs approved, City Council gives the staff authority to consider for extension up to twelve (12) months any unspent budget funds at August 31, 2016 for the programs listed below to August 31, 2018 after receipt and consideration of a statement of conditions necessitating the extension and, if approved by staff, subsequent written notification to ALAMO COLLEGES of the extension date and amount.

I.
DEFINITIONS

1.1 The term "**AC**" as used herein shall refer to the Alamo Colleges, formerly known as the Alamo Community College District or ACCD.

1.2 The term "Account" as used herein shall refer to that account established pursuant to the Settlement Agreement (Exhibit I) which consists of Proceeds to be used in connection with this Agreement.

1.3 The term "**CITY**" as used herein shall refer to the City of San Antonio.

1.4 The term "CPS" as used herein shall refer to the City of San Antonio CPS Energy, formerly known as City Public Service, or its successor in interest.

1.5 The term "Proceeds" as used herein shall refer to fourteen percent (14%) of the electric and natural gas charges billed by CPS Energy to the Alamo Colleges, which may otherwise collectively be referred to as "Funds".

II.
TERM

2.1 While the Parties agree that the Term of this Agreement formerly coincided with the initial term of the Settlement Agreement (attached hereto and incorporated herein as Exhibit I), which said initial Term is agreed to be fifteen (15) years, from April 1, 2001 through March 31, 2016, the Parties acknowledge that pursuant to the Interlocal Cooperation Act, this Agreement is subject to annual review. The Parties agree that the Term of this Agreement shall now coincide with **Alamo College's** fiscal year, and shall commence September 1, 2015 and terminate August 31, 2017, or until such time as all Proceeds plus interest and investment earnings, having accrued pursuant to the Settlement Agreement, are utilized by **CITY**, subject to subsequent City Council and **AC** Board approval.

2.2 Should **AC** decide not to renew this Agreement pursuant to the provisions of Subsection 2.1, all Proceeds, interest and investment earnings remaining unused by **CITY** shall be paid over to **CITY**, in cash, upon written notice by **CITY** to **AC**; and Proceeds, interest and investment earnings which would otherwise have been deposited in the Account for use by **CITY** in connection with this Interlocal Agreement and the Settlement Agreement, shall be paid directly to **CITY**, on an annual basis, for the balance of the 15-year Term hereof.

III.
ACCOUNTING FOR DEPOSITS

3.1 Within thirty (30) days following the end of each quarter -- March 31st, June 30th, September 30th and December 31st -- during the term of this Agreement, **AC** shall provide to **CITY,** through its Director of Finance at the Riverview Towers, 10th Floor, San Antonio, Texas 78205, as well as through its Director of Economic Development at P.O. Box 839966, San Antonio, Texas 78283-3966, in accordance with Section X. (Notice), an accounting of the Account established pursuant to Subsection 3.1 of the Settlement Agreement. **AC** shall provide a copy of the monthly TexPool Investment Pool statement, which indicates interest earned per month, and **AC's** monthly CPS analysis statement; including its calculation of the 14% attributable to **CITY** plus any interest and investment earnings for the quarter.

IV.
DESIGNATION OF PROGRAMS, HOURS AND TRAINING

4.1 In lieu of receipt of a portion of the Proceeds, in the amount of $2,981,571.92 by **CITY, AC** agreed to utilize such Funds to establish a high-technology center which could include, but not be limited to, finish-out of Building 210 located at Kelly AFB, or other equivalent facility, so long as such facilities are used for the purpose of providing customized training, college hours to **CITY** employees, various **CITY**-designated programs or for any other lawful purpose that supports **CITY's** Economic Development Strategies and Workforce Development.

4.2 In lieu of receipt of a portion of the Proceeds which have accrued for the period from January 1, 2000 through the commencement date of this Agreement, **AC** agrees to provide, and **CITY** agrees to accept, college hours for **CITY** employees and programs designated by **CITY,** including tuition reimbursement and/or any other lawful purpose that supports **CITY's** Economic Development Strategies and Workforce Development.

Exclusive of those **CITY** employees applying for tuition reimbursement, no less than five (5) days prior to the commencement of **AC's** Spring, Summer and Fall training, respectively, **CITY** agrees to provide **AC** with the number of **CITY** employees and designated **CITY** program participants to receive college hours, as applicable.

4.3 The Parties agree that **CITY** is not required to use any specific amount of college hours, training, books or materials in any given semester or year and that all Proceeds in the Account including, but not limited to, Proceeds plus interest and investment earnings shall be maintained by **AC** in the Account until all sums are used by **CITY** in accordance with provisions of this Agreement and the Settlement Agreement (Exhibit I).

4.4 **CITY** agrees to request customized training for **CITY** employees and/or entities or programs designated by **CITY,** through its Director of Economic Development Department, or his designee, or for any other lawful purpose in furtherance of **CITY'S** Economic Development Strategies and Workforce Development. Furthermore, **CITY** agrees to inform **AC,** no less than five (5) days prior

to the commencement of customized training, the designated number and names of the City program participants in the requested customized training, as applicable.

4.5 The Parties agree that, pursuant to the stated intent of the Settlement Agreement, funds from the ACCD-Utilities Escrow Settlement account may be utilized for various **CITY**-designated programs, as well as for any other lawful purpose in furtherance of **CITY**'s economic development strategies and workforce development, to include authority for **CITY**'s Director of Economic Development Department, with the concurrence of the **AC** Vice Chancellor for Economic and Workforce Development, to adjust budgetary line item allotments, up to fifty thousand dollars ($50,000.00), as necessary to further the purposes of this provision and Agreement.

V.
ACCOUNTING FOR PROGRAMS, EDUCATION AND TRAINING

5.1 **AC** will, at the commencement of the semester or scheduled training, as applicable, send an invoice to the **CITY** listing all individuals registered in those classes. Once approved by the **CITY**, **AC** may withdraw from the Account established pursuant to Section III of the Settlement Agreement, (Education and Training Account), an amount equal to the costs of said college hours, training, books and/or materials, or for any other lawful purpose in furtherance of City's Economic Development Strategies and Workforce Development, deposit said funds in **AC's** general fund, and forward to the **CITY** Director of Finance and Director of Economic Development a quarterly accounting of the withdrawal. If a dispute arises regarding whether the hours were taken, training was provided, certain books and materials were used, or regarding the costs used to calculate the amount to be withdrawn from the Account, that portion in dispute shall be returned to the established Account until the dispute has been resolved, in accordance with Section VII, (Audit of Records).

5.2 In calculating the cost of college hours, customized training books, materials, or for any utilization in furtherance of **CITY's** Economic Development Strategies and Workforce Development, **AC** agrees to use the rates or costs in effect at such time as the college hours are taken or the customized training is provided and the books and materials are utilized. In the event no rate or cost is established for the requested training, or for the specific books and materials, **CITY** and **AC** shall agree, in writing, on a rate to be used in said calculation.

Any refund of costs must be in accordance with **AC** refund policies in effect at such time as the college hours are taken or the customized training is provided.

5.3 No later than sixty (60) days after the conclusion of each semester, **AC** shall provide **CITY,** through the Director of Economic Development, with an accounting as follows: (1) list of **CITY** employees and designated **CITY** program participants completing **AC** college hours; (2) number of college hours completed; (3) cost per college hour; (4) list of books and materials utilized, if applicable; (5) cost of books and materials, if applicable; and (6) total cost.

5.4 No later than sixty (60) days after the conclusion of each customized training session, **AC** shall provide **CITY,** through the Director of Economic Development, with an accounting as follows: (1) name of **CITY**-designated Program for which training was provided; (2) description of the customized training; (3) number of hours training utilized; (4) cost per training hour or rate; (5) list of books and materials utilized, if applicable; (6) cost of books and materials, if applicable; and (7) total cost.

VI.
RECORD RETENTION

6.1 **AC** shall retain all records, documents and accounting records created or pertaining, directly or indirectly, to this Agreement, throughout the Term of this Agreement, and for the longer of that period which **CITY** or **AC** is required to retain such documents, as established by the Texas State Library and Archives Commission. Upon conclusion of such period, **AC** agrees to make copies, electronic copies will be permissible, at the **CITY's** request, of all such records, documents and accounting records for City or its designated representative, that have not been furnished previously pursuant to this Agreement or the Settlement Agreement, subject to a student's consent, as required by law and if applicable, at no additional cost to **CITY**.

VII.
AUDIT OF RECORDS

7.1 In the event a dispute arises between **CITY** and **AC** regarding whether certain college hours were taken, training was provided, certain books and materials were used, the costs used to calculate the amount to be withdrawn from the Account under Section V. (Accounting for Education and Training), or generally regarding the utilization and expenditure of Proceeds, **AC** shall procure the services of an independent, third party Certified Public Accountant to audit all records maintained in connection with this Agreement. Such audit shall commence no later than thirty (30) days from the date of notice of said dispute. Any portion of the Proceeds in dispute shall be maintained in the established Account until the dispute has been resolved as a result of said audit.

7.2 **CITY** shall procure the services of an independent, third party Certified Public Accountant to develop a Procedures Manual for the auditing, evaluation of processes and procedures, and verification of fund accounting related to programs, education and training provided pursuant to the terms of this Agreement.

7.3 The cost of the audit(s) and Procedures Manual required by Subsections 7.1 and 7.2 may be paid out of the Education and Training Account, established through Section III, (Education and Training Account), of the Settlement Agreement.

7.4 **AC** shall maintain all records, documents and accounting records generated directly or indirectly as a result of this Agreement at its main office and shall make such records, documents and accounting records available to **CITY**, during **AC's** regular business hours, as often as **CITY** deems necessary, for purposes of auditing, inspecting or making copies of same by **CITY** or its designated representative(s), subject to a student's consent, as required by law.

VIII.
AMENDMENT

8.1 No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, duly executed by the Parties and authorized by the Parties' respective governing body.

IX.
TERMINATION

9.1 In the event **CITY** terminates this Agreement prior to the expiration of the initial or subsequent 15-year Term, as applicable, of the Settlement Agreement, the Parties agree to meet and confer regarding the utilization and expenditure of Proceeds.

9.2 In the event **AC** terminates this Agreement prior to the expiration of the initial or subsequent 15-year Term, as applicable, of the Settlement Agreement, all Proceeds, interest and investment earnings remaining unused by **CITY** shall be remitted to **CITY,** in cash, upon written notice by **CITY** to **AC**; and Proceeds, interest and investment earnings which would otherwise have been deposited in the Account for use by **CITY** in connection with this Agreement, shall be paid directly to **CITY**, on an annual basis, for the balance of the applicable Term.

X.
NOTICE

10.1 Unless specifically provided for otherwise, any notice required or permitted to be given under this Agreement shall be given in writing and sent certified mail, return receipt requested, postage prepaid to **CITY** or **AC** at the addresses set forth below, or to any other address of which written notice of change is given:

CITY OF SAN ANTONIO

City of San Antonio
Attn: Director
Economic Development Department
P.O. Box 839966
San Antonio, Texas 78283-3966

City of San Antonio
City Attorneys Office
Attn: Commerce and Visitors Services
City Hall, 3rd Floor
San Antonio, Texas 78205

and

ALAMO COMMUNITY COLLEGE DISTRICT

Chancellor
201 W. Sheridan, Building B
San Antonio, Texas 78204-1429

XI.
VENUE AND GOVERNING LAW

11.1 All services performed pursuant to this Agreement, and venue and jurisdiction arising under or in connection with this Agreement, shall lie exclusively in Bexar County, Texas.

11.2 This Agreement shall be construed under and in accordance with the constitution and the laws of the State of Texas.

XII.
ASSIGNABILITY

12.1 **AC** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **CITY.** In the event **AC** assigns any interest or right in this Agreement without this prior written consent, then all Proceeds, interest and investment earnings remaining unused by **CITY** shall be remitted to **CITY,** in cash, upon written notice by **CITY** to **AC**; and Proceeds, interest and investment earnings which would otherwise have been deposited in the Account for use by **CITY** in connection with this Agreement, shall be paid directly to **CITY**, on an annual basis, for the balance of the initial or subsequent 15-year Term of the Settlement Agreement, as applicable.

12.2 **CITY** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **AC.**

XIII.
INCORPORATION OF EXHIBITS

13.1 All exhibits referred to herein and attached hereto are intended to be, and hereby are, specifically made a part of this Agreement. The exhibits are as follows:

Settlement Agreement	Exhibit I
Year Fifteen Interlocal Budget	Exhibit II
CITY's Authorizing Ordinance	Exhibit III
AC's Authorizing Minute Order	Exhibit IV

13.2 Should there be any conflict or inconsistency between this Agreement and Exhibit I, the terms of Exhibit I shall control. In the event of a conflict between this Agreement, Exhibit I, and Exhibit III, Exhibit III shall control.

XIV.
SEVERABILITY

14.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future laws then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision had not been contained herein. It is also the intention of the Parties hereto that in lieu of such clause or provision in this Agreement that is invalid, illegal or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XV.
CAPTIONS

15.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XVI.
SIGNATURES

16.1 EXECUTED in triplicate originals, this the _____ day of _____, 201__.

CITY
City of San Antonio

_____
Carlos J. Contreras, III
Assistant City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

Approved as to form:

_____
Leslie O. Haby
Assistant City Attorney

AC
Alamo Colleges

_____
Dr. Bruce H. Leslie
Chancellor

ATTEST:

_____
By: _____
Title: _____

Approved as to form:

_____
Ross Laughead
Attorney for the Alamo Colleges

EXHIBIT I
SETTLEMENT AGREEMENT

H:Finance/ACCDAgrmt12–final
03/20/01

SETTLEMENT AGREEMENT

WHEREAS, in 1987, the Fourth Court of Appeals in City of San Antonio v. Alamo Community College District, rendered judgement in favor of the City of San Antonio ("**CITY**") requiring the Alamo Community College District ("**ACCD**") to pay that portion of their electric and natural gas service bills destined to be paid to the City; and

WHEREAS, in the spirit of cooperation, the parties have agreed to a release, and an expenditure of a portion of the Proceeds to establish a High Technology Center to be utilized in furtherance of **CITY'S** Economic Development Strategies and Workforce Development; and

WHEREAS, the parties have also agreed to the establishment of an Account and expenditure of Proceeds therein to provide customized training, classroom hours, books and materials for **CITY** employees, various **CITY** designated programs and for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development subject to the terms established herein; and

WHEREAS, the parties have attached an Interlocal Agreement between the **CITY** and **ACCD** for the purpose of memorializing the parties intent as to the annual implementation and administration of the customized training classroom hours and materials to **CITY** employees, various **CITY** designated programs and for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development, which is attached as Exhibit "A" and is hereby incorporated into this Agreement for all purposes; and

WHEREAS, the parties wish to memorialize their mutual assent by means of this Agreement; **NOW THEREFORE:**

The City of San Antonio (hereinafter referred to as "**CITY**"), acting through its City Manager, Alexander E. Briseño, pursuant to Ordinance No. 93625, passed and approved March 22, 2001, and the Alamo Community College District (hereinafter referred to as "**ACCD**"), acting through its Chancellor, Robert W. Ramsay, pursuant to the minute order, passed by the **ACCD** Board of Trustees on February 20, 2001, which the parties covenant and agree as follows:

I.
DEFINITIONS

1.1 The term "**ACCD**" as used herein shall refer to the Alamo Community College District.

1.2 The term "Account" as used herein shall refer to that account that consists of Proceeds and is established to be used in connection with this Agreement.

1.3 The term "Administrative Costs" means reasonable costs directly incurred by **ACCD** related to this agreement. These costs include, but are not limited to, costs and expenses for administration and implementation of this Agreement.

1.4 The term "Building Account" as used herein shall refer to that account established to be used in connection with the establishment of a high-technology center, as further described by Section II. Building Account.

1.5 The term "**CITY**" as used herein shall refer to the City of San Antonio.

Attachment I

and purchase of equipment at Building 210, or other equivalent facility, **CITY** and **ACCD** agree to meet and confer regarding the expenditure and designation of the remaining amount.

2.7 In the expenditure of the Building Account, as provided for in subsection 2.2, **ACCD** shall comply with all applicable local, state and federal laws, rules and regulations

III.
EDUCATION AND TRAINING ACCOUNT

3.1 Effective April 1, 2001, **ACCD** shall establish an Account pursuant to this Section, as described below. **ACCD** shall deposit in said Account an amount equal to approximately $415,853.00, that amount which has accrued from January 1, 2000 through the commencement date of this Agreement.

3.2 Commencing April 1, 2001 and throughout the term of this Agreement, pursuant to the provisions contained herein, **ACCD** also agrees to deposit and maintain in said Account, fourteen percent (14%) of its monthly electric and natural gas billed by City Public Service to **ACCD**, otherwise referred to as Proceeds, plus interest and investment earnings, to be utilized to provide classroom hours, customized training to **CITY** employees and various **CITY** designated programs or for any other lawful purpose in furtherance of the **CITY'S** Economic Development Strategies and Workforce Development as established in the Interlocal Agreement (Exhibit A).

3.3 **ACCD** shall maintain the Proceeds, interest and investment earnings in the Account, which shall be separate and apart from its other accounts, including, but not limited to the Building Account described in Subsection II. Building Account, above, at a Bank in the City of San Antonio, at its sole cost and expense. The Account shall be maintained by **ACCD** so long as this Agreement is in effect or so long as the Proceeds plus interest and investment earnings remain unused by **CITY**, whichever is later. All Proceeds plus interest and investment earnings maintained in said Account shall be appropriately safeguarded and secured by FDIC and eligible security, in accordance with the Texas Public Funds Collateral Act. All Proceeds plus interest and investment earnings shall be invested by **ACCD** in accordance with the Texas Public Funds Investment Act, as amended.

3.4 The parties agree that all such amounts and Proceeds, interest and investment earnings in said Account accruing from January 1, 2000, through March 31, 2016 shall be used for the provision by **ACCD** to **CITY** of college hours, customized training, for **CITY** employees and various programs designated by **CITY** or for any other lawful purpose in furtherance of **CITY's** Economic Development Strategies and Workforce Development.

3.5 The parties agree that **CITY** is not required to use any specific amount of college hours, training, books, or materials in any given semester or year, and that all Funds in the Account, including but not limited to, Proceeds plus interest and investment earnings, will be maintained by **ACCD** in the Account until all sums are used by, **CITY** in accordance with Subsection 3.2 and the Interlocal Agreement (Exhibit A).

IV.
ACCOUNTING FOR DEPOSITS

4.1 At the end of each quarter -- March 31st, June 30th, September 30th and December 31st -- of each and every year during the term of this Agreement, **ACCD** shall provide to **CITY**, through its Director of Finance at 506 Dolorosa, San Antonio, Texas 78205, in accordance with Section XIII. Notice, an accounting of the Account established pursuant to Subsection 3.1 of this Agreement. **ACCD** shall

Costs to administer and implement the Interlocal Agreement payable in arrears quarterly. The parties agree and understand that under no circumstance shall Administrative Costs in the aggregate, exceed eighty thousand dollars ($80,000.00) each year for the first three years of this Agreement. At the end the third year the parties agree that they will meet and confer regarding the use of Proceeds for **ACCD's** Administrative Costs to administer and implement the Interlocal Agreement for the remainder of the term of this Agreement.

VIII.
RELEASE

8.1 That for and in consideration of the aforementioned recitals and other good and valuable consideration the **CITY** agrees to release, acquit, and forever discharge **ACCD**. Their current and former agents, servants, employees, representatives, successors, assigns and attorneys, all and each of them from payment of all or any portion of the up to fourteen percent (14%) of the electric and natural gas charges billed by City Public Service to the Alamo Community College District that the **CITY** asserts is due it or has asserted it is due in the past and future in the case styled City of San Antonio v. Alamo Community College District, Cause No 83-CI-20386 in the 288th District Court of Bexar County, Texas.

IX.
ASSIGNABILITY

9.1 **ACCD** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **CITY.** In the event **ACCD** assigns any interest or right in this Agreement without the prior written consent, all Proceeds, interest and investment earnings remaining unused by **CITY** shall be remitted to **CITY,** in cash, upon written notice by **CITY** to **ACCD;** and Proceeds, plus interest and investment earnings, which would otherwise have been deposited in the Account for use by **CITY** in connection with this and the Interlocal Agreements, shall be paid directly to **CITY**, on an annual basis, for the balance of the 15-year term hereof.

9.2 **CITY** shall not assign any interest, right or covenant in this Agreement to any other party or entity without the prior written consent of **ACCD**.

X.
AMENDMENT

10.1 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties, and approved by subsequent City Council and **ACCD** Board approval.

XI.
TERM

11.1 The term of this Agreement shall be for a period of fifteen (15) years, and shall commence April 1, 2001 and terminate March 31, 2016. The Agreement shall automatically renew every year thereafter, without notice and without further action by **CITY** or **ACCD**, unless this Agreement is terminated pursuant to any of its provisions.

11.2 During year twelve (12) of the initial 15-year term, the parties agree to meet and confer regarding the utilization and expenditure of Funds pursuant to this Agreement. Either party may provide notice to the other party in accordance with Section XIII, Notice, to initiate said conference.

14.2 The signer of this Agreement for **CITY** represents and warrants that he has full legal authority to execute this Agreement on behalf of **CITY** and to bind **CITY** to the terms and conditions herein contained.

XV.
CAPTIONS

15.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XVI.
ENTIRE AGREEMENT

16.1 This Agreement, together with its authorizing ordinance, minute order, and Exhibit A constitute the final and entire agreement between the parties and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto unless same be executed in accordance with Section XII, Amendment.

XVII.
SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision had not been contained herein. It is also the intention of the parties hereto that in lieu of such clause or provision in this Agreement that is invalid, illegal or unenforceable, there be added as a part of the Agreement, a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

IN WITNESS WHEREOF, I hereby execute this document on the ___ day of _____, 2001.

CITY OF SAN ANTONIO

for James A. Gonzalez

Alexander E. Briseño,
City Manager

Approved as to Form:

Frank J. Garza,
City Attorney

STATE OF TEXAS)(
COUNTY OF BEXAR)(

BEFORE ME, the undersigned authority, on this day personally appeared _____ and _____ known to me to be the persons whose names subscribed to the foregoing instrument and acknowledged to me that each of them, executed same for the purpose herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27 day of March, 2001.

Debra A. Martinez
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

DEBRA A. MARTINEZ
MY COMMISSION EXPIRES
August 3, 2003

My Commission Expires:

August 3, 2003

IN WITNESS WHEREOF, I hereby execute this document on the 27 day of March, 2001.

ALAMO COMMUNITY COLLEGE DISTRICT

_____
Dr. Robert W. Ramsay,
Chancellor

Approved as to Form:

_____
Robert W. Wilson,
Attorney for the Alamo Community College District

EXHIBIT II

YEAR FIFTEEN INTERLOCAL BUDGET

AC INTERLOCAL AGREEMENT PROPOSED BUDGET YEAR FOURTEEN

EDUCATION & TRAINING ACCOUNT PROPOSED BUDGET (FY 2015/2016)

Alamo Academies (AAAA, ITSA, ATMA, HPA, HEA)	$ 476,910.00
Training for City Employees (HR)	$ 457,350.00
Mentor-Protégé/Bonding Assistance Program (EDD)	$ 88,600.00
Long Term Case Management Training Scholarships (DHS)	$ 70,000.00
Financial Review and Procedures Audit*	$ 12,500.00
TOTAL	**$1,105,360.00**
*Budgeted for $12,500.00 for FY2015	

EXHIBIT III

CITY'S AUTHORIZING ORDINANCE

EXHIBIT IV

AC'S AUTHORIZING MINUTE ORDER