

ORDINANCE 2020-02-20-0109

AUTHORIZING THE NEGOTIATION AND EXECUTION OF AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING (THE “MOU”) WITH EDGEWOOD INDEPENDENT SCHOOL DISTRICT (“EISD”), ALAMO COLLEGES (“AC”) AND WESTSIDE DEVELOPMENT CORPORATION (“WDC”) AND ASSOCIATED FUNDING AGREEMENT (THE “FUNDING AGREEMENT”) BETWEEN THE CITY AND WDC IN CONNECTION WITH THE FUNDING AND CONSTRUCTION OF CAPITAL IMPROVEMENTS TO THE WESTSIDE EDUCATION AND TRAINING CENTER (THE “WETC”).

* * * * *

WHEREAS, the Westside Education & Training Center (WETC) located at 563 SW 40th Street in Council District 6 was created in 2006 out of a partnership among the City of San Antonio (City), Alamo Community College District (ACCD) and Edgewood Independent School District (EISD) to provide a means for residents to attain entry-level occupational skills or to increase technical skills; and

WHEREAS, the facility in its current condition has reached capacity in the number of programs and students it can serve; and

WHEREAS, plans to renovate the WETC included mechanical systems upgrades, plumbing, electrical improvements and installation of an elevator which were estimated to exceed \$10.367 million, with the most crucial renovations termed Tier 1 and estimated at \$887,823.00; and

WHEREAS, in the FY 2015 budget, the City Council allocated \$500,000.00 in Unissued Certificates of Obligation for Tier 1 improvements at the WETC, with funds release conditioned upon completion of funding for the all Tier 1 capital improvements; and

WHEREAS, the WDC, EISD and AC ’s Board of Directors approved an MOU providing the complete funding of the Tier 1 improvements and City Council approved a Funding Agreement which provided for the expenditure of the previously allocated \$500,000.00 on the Tier 1 renovations; and

WHEREAS, in 2017, as part of a voter-approved \$450 million bond package, AC allocated \$23 million for the WETC, including \$1.4 million to purchase the site from EISD, thereby requiring a revision to the project scopes of the MOU and Funding Agreement to allow for the construction of a new campus in lieu of renovations to the existing facilities; **NOW THEREFORE:**

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


SECTION 1. The City Council approves the terms and conditions of the First Amendments to the MOU among the City, EISD, AC and WDC and the Funding Agreement between the City and the WDC to revise the scopes of work to provide for the construction of a facility rather than the renovation of an existing facility. The City Manager or his designee is authorized to negotiate and execute both

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First Amendments, copies of which, in substantial final form, are set out in **Exhibits A** and **B**. A copy of the fully executed agreements will be substituted for **Exhibit A** and **Exhibit B** upon receipt of all signatures.


SECTION 2. This Ordinance shall be effective immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 20th day of February, 2020.




M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney



City of San Antonio

City Council

February 20, 2020

Item: 19

Enactment Number:

File Number: 20-1108

2020-02-20-0109

Ordinance amending agreements related to the Westside Education & Training Center (WETC), Edgewood Independent School District, Alamo Colleges Workforce Specialty Center and Westside Development Corporation. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development & Operations]

Councilmember Roberto C. Treviño made a motion to adopt. Councilmember Jada Andrews-Sullivan seconded the motion. The motion passed by the following vote:

Aye: 10 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia,
Cabello Havrda, Sandoval, Pelaez, Courage and Perry

Absent: 1 Gonzales

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EXHIBIT A

FIRST AMENDMENT TO THE FUNDING AGREEMENT

BETWEEN THE CITY OF SAN ANTONIO AND WESTSIDE DEVELOPMENT CORPORATION

This First Amendment to the Funding Agreement (this “First Amendment”) is entered into by and between the City of San Antonio (“CITY”), a municipal corporation governed by the laws of the State of Texas and the Westside Development Corporation (“WDC”), a local government corporation. Together, CITY and WDC may be referred to, herein, as “the Parties.”

RECITALS

- A. CITY and WDC entered into that certain Funding Agreement (the “Agreement”) authorized by City of San Antonio City Ordinance No. 2015-11-19-0977, passed and approved on November 19, 2015.
- B. Prior to this First Amendment, the Agreement was in full effect and the Parties were in compliance with all terms and conditions of the Agreement.
- C. The Parties, now seek to amend the terms and conditions of the Agreement as stated in this First Amendment and affirm that all other provisions of the Agreement remain in full force and effect.

AMENDMENT

NOW THEREFORE, the Parties hereby agree and amend as follows:

- 1. Definitions. All capitalized terms used in this First Amendment without definition herein shall have the meanings assigned to such terms in the Agreement.
- 2. Amendment. The Parties hereby mutually agree to amend the Agreement as follows:

The Agreement shall provide for a change in the Real Property definition to include any property acquired for the construction of a new facility rather than the renovation of an existing facility. Requirements shall be construed to apply to new construction and any requirements solely related to lease provisions shall be deleted in their entirety.

- 3. Effective Date. This First Amendment is authorized under City Ordinance 2020-02-13-___ and shall be effective upon the effective date of said ordinance.
- 4. No Other Changes. Except as specifically set forth in this First Amendment, all of the terms and conditions of the Agreement shall remain the same and are

hereby ratified and confirmed. The Agreement shall continue in full force and effect and with this First Amendment shall be read and construed as one instrument.

5. Choice of Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Texas.

6. Counterparts. This First Amendment may be executed in any number of counterparts, but all such counterparts shall together constitute but one instrument. In making proof of this First Amendment it shall not be necessary to produce or account for more than one counterpart signed by each party hereto by and against which enforcement hereof is sought.

WITNESS HEREOF, the parties hereto have executed in triplicate originals this First Amendment on the ____ day of _____ 2020.

CITY:

CITY OF SAN ANTONIO
a municipal corporation

WDC:

WESTSIDE DEVELOPMENT CORPORATION
a local government corporation

Erik Walsh
City Manager

Name: _____
Title: _____

ATTEST:

ATTEST (if necessary):

Leticia Vacek
City Clerk

Name: _____
Title: _____

APPROVED AS TO FORM:

City Attorney

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EXHIBIT B

AMENDMENT NO. 1 TO**MEMORANDUM OF UNDERSTANDING**

This Amendment No. 1 to Memorandum of Understanding (this "Amendment" to "MOU") is made as of the date of First Closing as hereinbelow defined, by and between the **City of San Antonio** ("City"), a Texas municipal corporation acting by and through its City Manager or designee as authorized by the City Council; **Westside Development Corporation** ("WDC"), a local government corporation created under Subchapter D, Chapter 432 of the Texas Transportation Code; **Edgewood Independent School District** ("EISD"), an independent school district and political subdivision of the State of Texas; and **Alamo Community College District** ("ACCD"), a public junior college district and political subdivision of the State of Texas. City, WDC, EISD and ACCD are herein referred to as the "Parties," or individually as a "Party".

WITNESSETH:

WHEREAS, the Parties executed a Memorandum of Understanding, dated November 19, 2015 ("MOU"), to memorialize the commitment of the Parties to cooperate and work together for the development and operation of the Westside Education Training Center ("WETC").

WHEREAS, the MOU contemplated that the ACCD would lease and renovate the EISD-owned known as the former Abraham Lincoln Elementary School and located at 563 SW 40th Street, San Antonio, Texas, together with the exclusive use of the furniture, fixtures, furnishings, and other personal property located therein; and

WHEREAS, EISD and ACCD executed a lease agreement for the former Abraham Lincoln Elementary School for the purpose of renovating the buildings into a WETC facility; and

WHEREAS, ACCD assigned the lease agreement to WDC through a document titled, "Second Amendment of the Lease; Assignment of Lease as Amended; & Assumption of the Lease as Amended," dated November 1, 2015 ("Second Amendment"), amending the leased premises to include the entire campus the former Abraham Lincoln Elementary School located at 563 SW 40th Street, San Antonio, Texas, consisting of the main building housing the WETC, a separate approximately 2,704 gross sq. ft. building formerly housing the office of Project Quest ("Project Quest Building") and the campus grounds, together with the exclusive use of the furniture, fixtures, furnishings, and other personal property located therein (the "Campus"); and

WHEREAS, Coincident with execution of the Second Amendment WDC and ACCD executed a Sublease Agreement whereby Subtenant ACCD subleased the entire leasehold, except the Project Quest Building; and

WHEREAS, upon further evaluation of the former Abraham Lincoln Elementary School property, ACCD has determined that it would be more economical to demolish the existing improvements and then construct a new WETC at this location rather than seek to renovate the existing improvements; and

WHEREAS, EISD and ACCD have entered into a Purchase and Sale Agreement (“Purchase Agreement”), under which ACCD agrees to acquire the entire campus (“Property”) of the former Abraham Lincoln Elementary School located at 563 SW 40th Street, San Antonio, Texas (“School”), in a transaction involving a first closing on the Property excluding the School building (“First Closing”), followed by a second, later closing involving the School building (“Second Closing”); and

WHEREAS, the Parties now wish to revise the MOU to reflect ACCD’s purchase of the Property from EISD and to reaffirm the pertinent remaining portions of the agreement.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements of the Parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the MOU as follows:

1. Parties agree that the requirement of the Agreement that WDC lease the Campus from EISD are supplanted by the authorized execution and delivery of the attached replacement lease attached hereto (“Replacement Lease”) of the “Premises” as therein defined, said Premises constituting a subset of the Campus, effective as of the Rent Commencement Date under the Replacement Lease.
2. The penultimate sentence and immediately preceding sentence of Section I.5 are deleted in their entirety.
3. Section III.1. is restated to state that the ACCD Capital Improvement Program WETC improvements demolition and reconstruction project shall replace and exceeds the Tier 1 WETC capital improvements and eliminates any Tier 1 Remainder (as well as addressing TIERS 2-4); and that the Net City Reimbursement will be applied to facilities for WDC at the reconstructed WETC and common area costs on terms agreed between ACCD & WDC.
4. Section III.1.c is restated as: “Contracts for construction of TIER 1 capital improvements by or on behalf of ACCD shall be procured in compliance with state law and be constructed in compliance with all applicable laws. ACCD must ensure that its contractors deliver original Texas Government Code Chapter 2253 Performance and Payment Bonds in order for the TIER 1 capital improvements to WDC and City to be eligible for reimbursement, and ACCD shall provide a copy of the Bonds to the City prior to construction. WDC shall approve the design plans for the space to be constructed for lease by WDC, which approval shall not be unreasonably withheld.”
5. Sections III.2.b., c., d., and e. are deleted in their entirety.
6. The last sentence of Section III.3 .b. is deleted in its entirety.
7. EISD hereby agrees to allow ACCD the use of all furniture, fixtures & equipment owned by EISD and located at the Westside Education & Training Center (“WETC”) until no longer needed by ACCD for the WETC, terminable by EISD 180 days after delivery of written notice thereof to ACCD.
8. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties caused this Agreement to be duly executed by their respective authorized representatives on the day and year first above written.

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| <p>EDGEWOOD INDEPENDENT SCHOOL DISTRICT</p> <p>By : _____ Dr. Eduardo Hernández Superintendant</p> | <p>WESTSIDE DEVELOPMENT CORP.</p> <p>By : _____ Ramiro Gonzales Intérim Executive Director</p> |
| <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Juan J. Cruz Legal Counsel for Edgewood ISD</p> | <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Francisco J. Garza Legal Counsel for Westside Development Corp.</p> |

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|---|---|
| <p>ALAMO COMMUNITY COLLEGE DISTRICT</p> <p>By : _____ Dr. Mike Flores Chancellor</p> | <p>CITY OF SAN ANTONIO</p> <p>By : _____ Erik Walsh City Manager</p> |
| <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Ross Laughead Legal Counsel for ACCD</p> | <p>ATTEST:</p> <p>_____</p> <p>Leticia M. Vacek City Clerk</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Andy Segovia City Attorney</p> |