

**MEMORANDUM OF UNDERSTANDING**  
**FOR DEVELOPMENT OF A MESA CAMPUS OF ALBRIGHT COLLEGE**  
**BETWEEN**  
**ALBRIGHT COLLEGE**  
**AND**  
**THE CITY OF MESA, ARIZONA**

**MAY 2012**

**MEMORANDUM OF UNDERSTANDING  
FOR DEVELOPMENT OF A MESA, CAMPUS OF ALBRIGHT COLLEGE**

This Memorandum of Understanding for development of a Mesa Campus of Albright College (the "MOU") is entered into by and between Albright College, a Pennsylvania not-for-profit corporation with its main campus located at 13<sup>th</sup> and Bern Streets, Reading, PA ("Albright"), and the City of Mesa, Arizona ("City of Mesa" or "Mesa"), an Arizona municipal corporation. Albright and Mesa are the "parties" to this non-binding MOU.

**RECITALS**

WHEREAS, the City of Mesa issued a Request for Information ("RFI") pursuant to its Higher Education Recruitment initiative, in order to identify institutions of higher education which may be interested in partnering with Mesa to establish one or more new campus locations in Mesa; and

WHEREAS, Albright provided a complete response to Mesa's RFI (Albright's "RFI Response") which documented Albright's willingness to partner with Mesa to develop a campus in the City of Mesa; and

WHEREAS, the parties' representatives have visited, and have held discussions directed toward establishing the basis for a partnership through which Albright would initially establish an Accelerated Degree Completion Program located in the City of Mesa; and

WHEREAS, the result of the parties' visits and discussions is that, as stated in the letter from Mesa to Albright dated January 18, 2012, the parties mutually desire to develop a Memorandum of Understanding (MOU) to create a campus for Albright College in the City of Mesa, initially located in a privately owned building and then transitioning to suitable City-owned space, to be shared with other higher education institutions, as such space becomes available ("Project"); and

WHEREAS, the parties, for purposes of this MOU, use the term "partnership" meaning a cooperative agreement, and have no intention of forming a legal partnership entity; and

WHEREAS, the parties reached mutual understandings as to certain terms of the partnership and in order to proceed, the parties intend this MOU to memorialize these terms and to state such terms more particularly, as appropriate; and

WHEREAS, the parties further intend that this MOU shall be the master guide for their respective planning efforts necessary to implement the Project and further intend this MOU to be the basis for the parties' preparation of, and mutual consent and agreement to, a definitive Development Agreement, Lease Agreement, or other appropriate deal documentation (Agreement) and for any other contracts, leases, submissions to regulatory or governmental bodies or other legal documents which the Project may require.

## **AGREEMENT**

NOW THEREFORE, it is the understanding of the parties hereto as follows:

### **I. TERMS OF PARTNERSHIP**

A. The parties have agreed in principle on the foundational terms of their partnership, based upon Albright's RFI Response, the site visits conducted by both parties, and other communications between the parties. These terms are confirmed by this MOU and are as follows, and in each instance, shall be subject to enforceable terms to be negotiated and refined in a future Agreement:

1. The Project will be known as Albright College at Mesa and will be initially sited in privately leased space in the City of Mesa. Albright College intends its Mesa campus to be re-located to 245 West 2<sup>nd</sup> Street in Downtown Mesa no later than the Fall of 2014.

2. Albright College will prepare and provide to the City of Mesa a plan for Albright's access to, and utilization of, other facilities appropriate for a liberal arts college located in the City of Mesa. Such plan shall include but not necessarily be limited to terms for access to the Mesa Performing Arts Center, the Mesa Amphitheater, the Mesa Convention Center, and the Mesa Public Library, for appropriate Albright activities, and access to other facilities owned by Mesa, including without limitation appropriate and sufficient parking.

3. Albright shall prepare and submit the applications and any other documents necessary for Albright to receive authorization or approval by the applicable regulatory and governmental agencies, including without limitation the United States Department of Education, the Higher Learning Commission of the Middle States Association of Colleges and Schools, and the Arizona State Board for Private Postsecondary Education. As and where necessary, Mesa shall provide information or documents to Albright College and/or the regulatory and

governmental agencies, and generally shall provide reasonable assistance and support for Albright's applications and related submissions.

4. Albright shall prepare and provide to the City of Mesa a plan for Albright College to develop working relationships with local educational institutions, businesses, civic groups, and other organizations as and where appropriate for the purposes of this MOU. The plan will include, without limitation, introductions and development efforts with Mesa Community College and the other institutions collectively known as the Maricopa Community Colleges, the East Valley Institute of Technology (EVIT), and the public and private high schools located in Mesa.

5. As stated in Albright's RFI Response, in order to identify the highest priority postsecondary educational needs and to determine the specific academic programs to be offered, Albright College will collaborate with Mesa to develop a shared vision, continue and expand dialogue between Albright and Mesa and appropriate constituents of the community, and develop a vision statement and a preliminary strategic plan (with one-, three-, five- and ten-year goals and objectives). Albright's goal is to enroll students for classes beginning in the fall 2012 semester (anticipated to begin in approximately the third week of August 2012). The preliminary strategic plan shall include, among other things, Albright's projections of the number of degree programs to be offered in the first, third, fifth and tenth years of operation of the Mesa campus including a detailed description of the proposed programs. (Preliminary projections and descriptions are set forth in the Addendum entitled "Projections (Preliminary)", attached to this MOU.)

6. The Mesa offices of Economic Development and Public Information shall coordinate marketing efforts with Albright's Office of College Relations, support and promote Albright as a City of Mesa partner, and provide reasonable assistance and support to Albright for the development of an effective marketing campaign for Albright's campus to be located in the City of Mesa. The parties agree and acknowledge that each party's trademarks may not be used without permission from the other. The parties agree that before using the other party's trademark, Mesa shall obtain prior approval from Albright's Office of College Relations, and Albright shall obtain prior permission from City's Public Information Officer, which permission shall not be unreasonably withheld. Albright shall support and promote the City of Mesa as an Albright partner.

7. The operations of Albright's Mesa campus will begin with academic classes and related administrative and academic support functions. Within sixty (60) days of the execution of this agreement, Albright will provide Mesa the specifications (which shall conform to applicable statutes, ordinances and codes) for the building modifications needed for the building located at 245 West 2<sup>nd</sup> Street in Mesa. Subsequently, the Parties will meet with architects selected by the City of Mesa to discuss the building renovations, estimate the costs of required renovations, and determine which improvements will be made by each party and which fixtures, furniture and equipment will be purchased by each party. The final Agreement shall make further provision for the development and submission of the specifications, the management of the work, project-related contributions and responsibilities of the parties, and any other related items.

8. The parties acknowledge that each of the terms described in sections 1 through 7, inclusive, of paragraph I.A 8 is subject to the parties reaching agreement on specific terms in a future Agreement.

9. Notwithstanding any other term or provision of this MOU, the parties acknowledge and agree that the requirements of the State of Arizona licensure statute (A.R.S. § 32-3001 *et seq.*) may limit Albright's advertisement for and recruitment of students in the State of Arizona, prior to issuance of a license to Albright for the granting of degrees and the operation of a degree program.

B. The parties agree that an Agreement will be necessary to establish and document the Project contemplated by this MOU. The Agreement will include definitive terms on the subject matters covered in sections 1 through 7 of paragraph I.A, and the following further terms (among others):

1. Albright will appoint an administrator with overall responsibility for the operation of the Albright campus in the City of Mesa, and will hire appropriate faculty and staff for the campus (as and when permissible in accordance with applicable regulatory requirements). Albright will establish a reasonable preference for hiring individuals residing in Mesa and within a defined local area around Mesa.

2. Albright will provide financial incentives for student and community support for the Albright campus.

3. Provision will be made for an on-going consultation between and among Albright, Mesa, civic and business leaders and groups, social agencies,

and other interested parties, for purposes of developing academic programs best suited to the needs of the greater Mesa community.

4. All financial, leasing and other material commitments of either or both parties (but not including the implementation steps in this MOU) shall be conditioned upon Albright receiving all required regulatory and governmental approvals. Without limiting the generality of the foregoing, the City of Mesa shall not be expected to initiate any construction activity until all such approvals have been granted.

## **II. IMPLEMENTATION STEPS**

A. The parties shall use reasonable efforts to make the Project a success and to implement the terms of this MOU, and shall provide reasonable services to accomplish that goal, including appropriate administrative structures, staff and budgetary support. As their respective project leaders, Mesa designates William Jabjiniak (Economic Development Director) and Albright College designates Andra Basu (Dean of Adult and Professional Studies).

B. The parties shall collaborate to develop a detailed calendar of milestones for the development of the Project, including but not limited to issuance of press releases. The parties agree that any press release issued by either party concerning the subject matter of this MOU must be mutually agreeable to the parties.

C. The parties recognize that as a result of this MOU, Mesa may be provided with confidential information relating to Albright's business policies, procedures, students, employees, and other confidential information. Neither Mesa nor its employees, agents or officials will disclose any such confidential information without the prior, express written consent of Albright College.

## **III. OTHER TERMS**

A. Assignment. Neither party may assign, sublicense or otherwise transfer or delegate any right or obligation in this MOU without the written consent of the other party.

B. No Waiver. No failure or delay by either party in exercising any right, power or remedy will operate as a waiver of such right, power or remedy, and no waiver will be effective unless it is in writing and signed by the party to be charged thereby.

C. Severability. If any term, clause or provision of this MOU is held to be illegal, invalid or unenforceable, or the application thereof to any person or circumstance shall to any extent be illegal, invalid or unenforceable under present or future laws effective during the term hereof, it is the express intention of the parties that the remainder of this MOU, {00037737.1} MOU BETWEEN ALBRIGHT COLLEGE AND THE CITY OF MESA, AZ

or the application of such term, clause or provision other than to those as to which it is held illegal, invalid or unenforceable, shall not be affected thereby, and each term, clause or provision of this MOU and the application thereof shall be legal, valid and enforceable to the fullest extent permitted by law.

D. Governing Law. This MOU shall be governed by the laws of the State of Arizona, without regard to its conflict of laws principles.

E. Complete Agreement. This document shall be the entire understanding and agreement between the parties with respect to the subject matter set forth herein, and all prior agreements, understandings, covenants, promises, warranties, and representations, oral or written, not incorporated herein are superseded hereby.

F. Modifications. No revision or modification hereof shall be effective unless it is in writing and signed by both parties.

G. Notices. All notices and communications required or permitted to be given hereunder shall be in writing and shall be made by personal delivery, sent prepaid by nationally recognized overnight courier, or sent by United States certified mail, return receipt requested, postage prepaid. All notices shall be effective upon receipt at the appropriate address as is provided by each party in accordance with this section:

To Albright College:  
Albright College  
Andra Basu  
13<sup>th</sup> and Bern Sts.  
Reading, PA 19612-5234

To City of Mesa:  
City of Mesa AZ  
William Jabjiniak, Director  
Office of Economic Development  
20 East Main Street, Suite 200  
P.O. Box 1466  
Mesa, Arizona 85211-1466

H. Effective Date and Termination. This MOU will become effective on the date it is executed by both parties, and it will continue in effect until: 1) superseded by the Agreement; 2) termination by either party, by giving thirty (30) days' advance written notice to the other party; or 3) if neither of the previous conditions occur, June 30, 2013.

I. Calculation of Time Periods. Each time period specified in this MOU shall begin on the day following the date the last party executes this MOU.

**IN WITNESS WHEREOF**, the undersigned parties, by and through their duly authorized officers, have executed this Memorandum of Understanding between Albright College, and the City of Mesa, Arizona.

**Albright College**

**City of Mesa, Arizona**

**Lex O. McMillan III**  
**President**

**Christopher J. Brady**  
**City Manager**

**Date**

**Date**

#### Year 1 (2012-2013)

- Accelerated degree programs (non-traditional students)
  - Business Administration
  - Information Systems
  - Organizational Behavior/Applied Psychology
- One location in Mesa
- Projected enrollment: 50-75 students

#### Year 3 (2015 - 2016)

- Two additional accelerated degree programs (non-traditional students)
- One graduate program in Mesa
- Additional locations in Mesa
  - Projected additional enrollment: 200 - 300 students ADP, 30 graduate students

#### Year 5 (2017- 2018)

- Two graduate program in Mesa - projected enrollment: 60 students
- Three undergraduate degree programs (2+2 cohort model for traditional age students)
  - Projected enrollment: 120 students

#### Year 10 (2022 - 2023)

- Six undergraduate degree programs (2+2 cohort model for traditional age students)
- Total projected enrollment for all programs: 1000 students