



## MEMORANDUM

**City of Austin  
Financial & Administrative Services Department  
Purchasing Office**

**DATE:** September 29, 2016  
**TO:** Memo to File  
**FROM:** Claudia Rodriquez  
**RE:** MA 5500 NI160000020

This agreement was created by Economic Development Department and is administered and maintained by same.

According to Texas Local Government Code, Chapter 380, Section 380.001 regarding Economic Development Programs,

*The governing body of a municipality may establish and provide for the administration of one or more programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.*

City of Austin Administrative Bulletin Number 84-07 states the authority granted to the Economic Development Department (formerly EGRSO).

*Procurement authority for certain economic development contracts as described in Local Government Code, Chapter 380 is delegated to the Director of EGRSO.*

There is no procurement function other than the creation of the payment vehicle.

**INTERLOCAL AGREEMENT  
BETWEEN CITY OF AUSTIN AND AUSTIN COMMUNITY COLLEGE  
FOR A FASHION INCUBATOR PROGRAM**

This Interlocal Agreement ("Agreement"), authorized and governed by Chapter 791 of the Texas Government Code, is entered into by and between Austin Community College District ("ACC"), a Texas community college organized and operating pursuant to Chapter 130 of the Texas Education Code, and the City of Austin ("City"), a Texas home-rule municipal corporation and political subdivision of the State of Texas.

**RECITALS**

The City has determined that as part of its workforce training, economic development, and diversification efforts, it would benefit the growth of the local fashion industry in Austin to implement a fashion incubator ("Fashion Incubator") in cooperation with ACC to train future fashion industry workers and work with local fashion companies and manufacturers;

ACC offers fashion design and production programs to students enrolled at ACC, providing students with the skills necessary to work in the fashion industry in Austin, and the implementation of the Fashion Incubator will expand the opportunities for students enrolled at ACC;

Additionally, the Fashion Incubator may be made available to private companies that require certain specialized equipment to produce product runs of their designs;

As part of the operation of the Fashion Incubator, the City has identified certain leading-edge art technology equipment ("Equipment") from Gerber Technology that will be beneficial for workforce training and limited production runs for local fashion designers and small manufacturers, and should be included in the Fashion Incubator;

ACC will lease the specific Equipment identified by the City and will incorporate training and operation of the Equipment as part of its curriculum within the Fashion Incubator;

The City will assist ACC students receiving the specialized training and certificates with finding work within the fashion industry in Austin;

The City and ACC together have the facilities, personnel and experience necessary to develop the Fashion Incubator, including training on the operation of the Equipment;

The City and ACC have determined that the development and operation of the Fashion Incubator will provide important economic development opportunities to ACC students and the economy of the City; and

The City and ACC desire to enter into this Agreement to develop and operate a Fashion Incubator, including the lease and operation of the Equipment.

For and in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and ACC agree as follows:

**I. Purpose**

The purpose of this Agreement is to establish the framework for the Fashion Incubator to train students on

the operation of the Equipment and expand employment and economic opportunities in the fashion industry in Austin. Students eligible to participate in classes offered in connection with the Fashion Incubator shall be enrolled at ACC. The Fashion Incubator shall also be open to students enrolled at such institutions as the University of Texas at Austin, Texas State University, and the Fashion Design and Interior Design Career Path at Austin Independent School District. The Equipment in the Fashion Incubator may also be made available to local fashion designers to produce their designs and get them to market, thereby promoting the City's public purpose of helping smaller startup companies in the City; provided that such designers have successfully completed the training on the Equipment in accordance with ACC's rules and regulations.

## **II. Obligations of ACC**

- A. ACC shall provide for up to 7,500 square feet of space for the Fashion Incubator (the "Space"). The Space shall be located 6101 Airport Boulevard, Austin, Travis County, Texas in the former Highland Mall and will be part of ACC's Highland Campus. ACC will build-out the Space in a good and workmanlike manner and in accordance with plans mutually agreed upon by ACC and the City.
- B. ACC will provide the City with three (3) offices within the Space that shall be occupied by City employees who will use the offices to provide small business counseling services to ACC students enrolled in classes associated with the Fashion Incubator and to assist with scheduling time with the Equipment and in the Fashion Incubator to local fashion designers to produce their designs for display and sale.
- C. ACC shall lease the Equipment from Gerber Technology for at least (1) year with a renewal options to extend the term up to three (3) years, pursuant to an equipment lease (the "Equipment Lease"), containing terms and conditions acceptable to ACC. For so long as this Agreement is in effect, ACC shall only use the Equipment as part of the Fashion Incubator. ACC shall maintain the Equipment throughout the term of this Agreement in accordance with the manufacturer's requirements.
- D. ACC shall establish the curriculum and hire instructors and staff to provide classes and operate the Fashion Incubator, which shall include training on the Equipment. ACC will develop program guidelines and rules and regulations for enrollment and the evaluation of student performance related to the Fashion Incubator and use of the Equipment. The curriculum shall include requirements to successfully complete training on the Equipment and the award of a certificate to a successful participant upon completion of training on the Equipment.
- E. At the end of each program year, ACC will provide to the City a post-program report that includes the following:
  - a. Information reflecting student success as a result of enrollment in the Fashion Incubator; and
  - b. Recommended changes for the Fashion Incubator.
- F. ACC designates its Continuing Education Program as the department responsible for ACC's administration of this Agreement.

## **III. Obligations of the City**

- A. The City shall fund the build-out of the Space in the amount of One Hundred Ninety Thousand and No/100 (\$190,000.00) (the "Allowance"). The City shall pay ACC one-half of the Allowance upon the earlier of: (i) completion of the Space for the Fashion Incubator, or (ii) September 30, 2016. The City shall pay ACC the remaining amount of the Allowance on or before January 31, 2017. The City represents that the Allowance has been approved by the City Council and will be available and delivered to ACC in accordance with the terms of this Agreement. In the event that the build-out is not completed in a timely manner, ACC will refund the Allowance to the City if the delay in completion was caused by ACC and completion of the build-out was within ACC's sole control.
- B. The City shall reimburse ACC for the cost of the rental on the Equipment (the "Equipment Rental") pursuant to the Equipment Lease in an amount not to exceed \$55,000 per year. The City agrees to reimburse ACC on an annual basis for the term of this Agreement (as provided below) within thirty (30) days after ACC provides the City with receipt of payment for the Equipment Rental. The City represents that the cost of the Equipment Rental for the three (3) year term under the Lease has or will be approved by the City Council, but is subject to annual appropriation by the City Council.
- C. The City shall provide City employees with experience and training to offer small business counseling services to participants in the Fashion Incubator, in order to develop employment and economic development opportunities in the fashion industry in Austin. Additionally, City employees working within the Fashion Incubator will work with ACC staff to identify local fashion designers and businesses that can take advantage of the Equipment to produce their designs.
- D. The City employees shall occupy the offices designated by ACC as City offices in the Space and only for the purposes designated in this Section III(C).
- E. The City designates the Economic Development Department as the department responsible for the City's administration of this Agreement.

#### **IV. Term, Termination**

- A. This Agreement will be effective after the date of execution by all parties.
- B. This Agreement will be effective from and after the date of execution by all parties for three (3) years, unless terminated earlier by either Party.
- C. This Agreement may be terminated without cause by either party upon thirty (30) days' written notice to the other Party, to be effective: (i) at the end of the thirty (30) days; or (ii) at the end of the semester following the thirty (30) days' notice, whichever is later. Notwithstanding the foregoing, the City acknowledges and agrees that if the City terminates this Agreement, except as provided under Section III(B), the City shall be required to pay ACC any amounts due under this Agreement including the Allowance or the Equipment Rental. ACC acknowledges and agrees that if ACC terminates this agreement prior to the expiration of the three (3) year period, ACC will refund to the City a prorated portion of the Allowance that has been paid for the remaining time of the three (3) year term.

#### **V. General Provisions**

- A. Modification. This agreement may not be altered, amended or modified except in writing

executed by duly authorized representatives of each Party.

- B. Law and Venue. This Agreement will be governed by the laws of the State of Texas. The obligations under this Agreement are performed in Travis County, Texas. It is expressly understood that any lawsuit or litigation arising out of or relating to this Agreement will take place in a court of appropriate jurisdiction in Travis County, Texas.
- C. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters covered by this Agreement, and no other agreement, statement, or promise made by any party or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid.
- D. Notices. Notices under this Agreement shall be in writing, and may be given by hand delivery, U.S. mail, or telecopy (facsimile). If sent to the parties at the contact information addresses designated herein, notice shall be deemed effective upon receipt in the case of hand delivery or telecopy and three (3) days after deposit in the U.S. mail in case of mailing. The address of the parties for all purposes shall be:

*City of Austin:*

Marc A. Ott, City Manager (or successor)  
City of Austin  
P. O. Box 1088  
Austin, Texas 78767

And,

Sylvonia Holt-Rabb, Assistant Director of Economic Development (or successor)  
City of Austin  
P. O. Box 1088  
Austin, Texas 78767

*With copy to:*

Anne Morgan, City Attorney (or successor)  
P. O. Box 1088  
Austin, Texas 78767

*Austin Community College:*

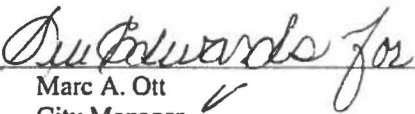
Dr. Ben Ferrell, Executive Vice President,  
Campus Planning and Operations (or successor)  
Austin Community College  
5930 Middle Fiskville Road,  
Austin, TX 78752-4341

- E. Incorporation of Recitals. The recitals that appear at the beginning of the Agreement are incorporated into this Agreement by reference.
- F. Assignment. Any assignment of this Agreement by a Party requires the prior written consent of the other Party.
- G. Severability. If any provision of this Agreement is held by a Court of competent jurisdiction

H. Effective Date. This Agreement is effective on the last day signed below.

I. Authorization. By signing below, each Party's representative warrants that he is duly authorized to enter into this Agreement on behalf of his entity, and that each Party to this Agreement is authorized by Texas law to accept the terms, conditions, and obligations set forth herein.

**CITY OF AUSTIN:**

By:   
Marc A. Ott  
City Manager

Date: 9.29.16

**AUSTIN COMMUNITY COLLEGE DISTRICT:**

By: \_\_\_\_\_  
Dr. Richard Rhodes  
President/CEO

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: Katherine A. Kuzmickas  
Print Name: Katherine A. Kuzmickas  
City of Austin  
Law Department

Date: 9/23/16

By: \_\_\_\_\_  
Cobby A. Caputo  
Attorney for  
Austin Community College

Date: \_\_\_\_\_

to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall, nevertheless, continue in full force and effect, without being impaired in any manner whatsoever.

H. Effective Date. This Agreement is effective on the last day signed below.

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**CITY OF AUSTIN:**

By: \_\_\_\_\_  
Marc A. Ott  
City Manager

Date: \_\_\_\_\_

**AUSTIN COMMUNITY COLLEGE DISTRICT:**

By: \_\_\_\_\_  
Dr. Richard Rhodes  
President/CEO

Date: 9/23/16

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_  
City of Austin  
Law Department

By: \_\_\_\_\_  
Cobby A. Caputo  
Attorney for  
Austin Community College

Date: \_\_\_\_\_