

**INTERLOCAL COOPERATION AGREEMENT BETWEEN  
THE CITY OF AUSTIN AND  
AUSTIN COMMUNITY COLLEGE DISTRICT  
FOR FACILITY USE AND ADULT EDUCATION  
COURSES AT AARC**

This Interlocal Cooperation Agreement for Facility Use and Adult Education Programming Agreement (“Agreement”) is made and entered into by and between the City of Austin, a Texas home-rule municipality (“City”), and Austin Community College District, a junior college district created and operating pursuant Texas Education Code Chapter 130 (“ACC”), collectively referred to as the “Parties.”

WHEREAS, this is an Interlocal Cooperation Agreement authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. Each party represents and warrants that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized governmental function, which it is authorized to perform individually under the applicable statutes of the State of Texas and/or its charter.

WHEREAS, ACC has received federal and State grant funding to provide Adult Education Programming at various City facilities, including the Asian American Resource Center (“AARC”). ACC wishes to offer English as a Second Language (“ESL”) classes, and potentially other Adult Education classes, at the AARC and the City wishes to provide space for such classes, free of cost, at mutually agreed upon dates and times.

WHEREAS, ACC’s Adult Education Programming provides classes in English as a Second Language, literacy and civics, and GED preparation. The purpose of the ESL classes is to help Austin residents learn basic English in order to succeed. These are survival classes for beginner students who primarily want to learn English for everyday life, employment skills enhancement, and to assist in situations such as obtaining housing, shopping, and communicating at work.

WHEREAS, the Austin City Council approved Ordinance No. [REDACTED] to waive up to \$ [REDACTED] in rental fees at the Asian American Resource Center for ACC to hold its Adult Education classes.

NOW, THEREFORE, ACC and the City, intending to be legally bound, hereby agree to the following terms and conditions of this Agreement:

1. **Scope.** ACC agrees to offer ESL classes, and potentially other Adult Education classes, to the public at the AARC, which is managed by the City’s Parks and Recreation Department (“PARD”) and located at 8401 Cameron Road, Austin, TX 78754.

2. **ACC Responsibilities.**

a. ACC shall offer ESL classes in accordance with the terms of the grant and the schedule set forth in **Attachment A**. ESL classes shall be provided at no charge to the City or to class participants.

b. ACC shall be responsible for all student registrations and shall provide any necessary class and study materials and equipment.

c. ACC will communicate any changes in scheduled ESL classes to City's Contract Manager within 72 hours. ACC acknowledges that City will attempt to provide space for re-scheduled classes, events or meetings that have been previously scheduled.

d. ACC will comply with the City and AARC facility rules and regulations in **Attachment B**.

e. ACC is responsible for securing the services, at ACC's sole expense, of qualified instructors, as well as any other personnel needed to safely conduct each class. All classes will be supervised by a qualified ACC instructor. ACC instructors shall not leave minor students unsupervised. ACC shall ensure that all instructors successfully pass a Criminal Background Investigation (CBI) prior to holding the first class at AARC, and agrees that no one shall be permitted to substitute for an ACC instructor or to volunteer to assist with the classes unless the person has passed a CBI and obtained approval from City's Contract Manager.

f. ACC and PARD may each promote the classes at the AARC.

g. ACC must maintain, throughout the term of this Agreement, the insurance coverage described on **Attachment C**. The insurance policies shall contain the appropriate endorsements in favor of the City of Austin Parks and Recreation Department. ACC agrees to supply evidence of the insurance coverage to City's Contract Manager when ACC submits the signed Agreement. If the required evidence of insurance is not provided at the time ACC signs this Agreement, City's Contract Manager shall refuse to submit the Agreement for City signature. If City's Contract Manager learns that any required insurance coverage has lapsed or been cancelled, City's Contract Manager shall immediately terminate this Agreement.

h. ACC is responsible for maintaining the condition of the room during classes, restoring it to the same condition as it was prior to the scheduled class which includes any required cleaning of the space. ACC shall not make alterations to the AARC or room without the prior written approval of City's Contract Manager.

i. ACC shall not refuse participation to any student on the basis of race, color, age, national origin, or sexual orientation.

j. ACC shall comply with all applicable federal, State, and local laws and regulations in performing under this Agreement.

k. ACC agrees that City may conduct periodic program evaluations to assess the efficiency and effectiveness of the classes, and the number of students, and ACC agrees to assist in any such evaluations.

l. ACC agrees to provide the City an annual report at the end of the programs that lists program attendance and student demographics.

### 3. **City Responsibilities**

a. City shall provide ACC with access to the AARC and reasonable assistance with room set-up. If, due to an emergency, City cannot provide access to the AARC on a particular day, City's Contract Manager shall notify ACC's Contract Manager within 72 hours (except in emergency circumstances).

b. At its own cost, City shall maintain the AARC in a clean and presentable manner, and City shall be responsible for providing heat, light, and ventilation services.

c. City shall comply with all applicable federal, State and local laws and regulations in performing under this Agreement.

d. City shall provide ACC instructors with a copy of **Attachment B**, which includes information about security, rules for use of classroom space, and any reports required from instructors.

4. **Contract Managers.** The following shall serve as the Contract Managers for the parties:

ACC:

Katherine Dowdy, Executive Director, Adult Education  
5930 Middle Fiskville Road  
Austin, TX 78752  
[kdowdy@austinacc.edu](mailto:kdowdy@austinacc.edu)  
Phone: (512) 223-7738

City of Austin:

Laura Esparza, Division Manager, Museums and Cultural Programs  
1110 Barton Springs Road  
Austin, TX 78704  
[laura.esparza@austintexas.gov](mailto:laura.esparza@austintexas.gov)  
Phone: (512) 974-4001

5. **Term.** The initial term of this Agreement is January 1, 2020 through December 31, 2020. The Agreement will renew automatically on the anniversary date for five successive, 12-month terms, unless amended or terminated in accordance with other provisions of the agreement.

6. **Termination.** The Agreement may be terminated with or without cause by providing at least 45 days' written notice to the non-terminating party. If either party breaches the Agreement, the other party may terminate the Agreement if the party in breach fails to cure the breach within seven (7) calendar days, or such additional time as may be agreed to in writing by the parties, of receipt of written notice of the breach.

7. **Notices.** Any notice or other communication permitted or required under this Agreement shall be provided in writing and shall be deemed to be effective when delivered by personal delivery, confirmed facsimile or, if mailed, five calendar days following deposit in the U.S. mail, by certified mail, return receipt requested, addressed to the persons identified in Section 13.

8. **Force Majeure.** Each party to this Agreement agrees to excuse the failure of another party to perform its obligations under this Agreement to the extent, and for a period of time during which, the failure is caused by an event of Force Majeure. An event of Force Majeure is any event or circumstance which prevents or delays performance of any obligation arising under this Agreement, but only if and to the extent the event or circumstance is not within the control of the party seeking to have

its performance obligation excused thereby and which the party was unable by the exercise of due diligence to avoid or prevent.

9. **Independent Contractors.** The parties' relationship during the term of this Agreement shall be that of independent contractors.

10. **Waiver.** Any waiver of any breach of this Agreement shall not be effective unless set forth in writing signed by an officer of the waiving party.

11. **Assignment.** Neither party may assign this Agreement without the other party's prior written consent. A party in its sole discretion may withhold its consent to assignment, and any attempted assignment in violation of the foregoing shall be void.

12. **No Third-Party Beneficiaries.** City and ACC agree that the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and this Agreement is made solely and specifically for their benefit. No other person, including but not limited to any ACC student, prospective student, or instructor, shall have any rights, interest or claims under this Agreement.

13. **Notice Addresses.** Any notice required or permitted under this Agreement shall be sent to the following addresses:

City of Austin:

Laura Esparza, Division Manager  
Museums and Cultural Programs  
Parks and Recreation Department  
1110 Barton Springs Road  
Austin, TX 78704  
[laura.esparza@austintexas.gov](mailto:laura.esparza@austintexas.gov)  
Phone: (512) 974-4001

With copy to:

Sona Shah, Cultural & Arts Education Manager  
Asian American Resource Center  
Parks and Recreation Department  
8401 Cameron Road  
Austin, TX 78754  
[sona.shah@austintexas.gov](mailto:sona.shah@austintexas.gov)  
Phone: (512) 974-1690

ACC:

Katherine Dowdy, Executive Director  
Adult Education  
Austin Community College  
5930 Middle Fiskville Road  
Austin, TX 78752  
[kdowdy@austincc.edu](mailto:kdowdy@austincc.edu)  
Phone: (512) 223-7044

14. **Entire Agreement.** This Agreement shall be construed in accordance with the laws of the State of Texas excluding its conflicts of laws rules. This Agreement constitutes the entire agreement between the parties with respect to ESL classes or use of the Facility All proposals, negotiations, and representations (if any) made prior, and with reference to the subject matter of this Agreement, are superseded by this Agreement. This Agreement may be executed in two or more counterparts and each counterpart will be deemed an original, but all counterparts together will constitute a single instrument. Neither ACC nor the City shall be bound by any oral agreement or representation, irrespective of when made.

15. **No Funding.** The parties agree that nothing in this Agreement obligates either party to provide any funding or payment to the other party. To the extent that a party incurs costs or expenses as part of this Agreement, the party incurring those expenses or costs represents to the other party that it will pay for those costs or expenses from current revenues available to that party. The parties further acknowledge that the benefits that they each receive from this Agreement fairly compensate them for the obligations they must perform under this Agreement.

16. **Authority.** Each party warrants that this Agreement has been authorized by its governing body in accordance with Chapter 791 of the Texas Government Code.

17. **Amendments.** This Agreement may only be modified by a written instrument executed by an authorized officer of both parties.

18. **Jurisdiction and Venue.** This Agreement is made under and shall be governed by the laws of the State of Texas, without regard to conflicts of law principles which would apply the law of any other jurisdiction. Mandatory venue for any dispute arising out of or concerning this Agreement shall be Travis County.

19. **Publicity.** Where such action is appropriate as determined by the City, ACC will publicize the activities conducted by ACC under this Agreement. Any news release, sign, brochure, or other advertising medium including websites disseminating information prepared or distributed by or for ACC will recognize the City as a partner.

20. **Survivability of Obligations:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

21. **Dispute Resolution.** If a dispute arises out of or relates to the Agreement, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the

parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and ACC agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Agreement prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session, and ACC agrees it will compel participation of its vendors in mediation if applicable to the dispute. The City and ACC will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

*(Signature page follows)*

IN WITNESS WHEREOF, the Parties hereto intending to be legally bound have read and executed this Agreement.

**CITY OF AUSTIN**

**AUSTIN COMMUNITY COLLEGE DISTRICT**

By: \_\_\_\_\_  
Christopher J. Shorter  
Assistant City Manager

By: \_\_\_\_\_  
Gigi Edwards Bryant  
Chair, ACC Board of Trustees

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

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

By: \_\_\_\_\_  
Nora Comstock, Ph.D.  
Secretary, ACC Board of Trustees

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

APPROVED AS TO CONTENT:

**Parks and Recreation Department**

By: \_\_\_\_\_  
Kimberly McNeeley, Director

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

APPROVED AS TO FORM

**City Law Department**

By: \_\_\_\_\_  
Assistant City Attorney

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

**Attachments:**

Attachment A – ACC Class Schedule for Basic ESL, ESL Level 1 and ESL Level 2 Classes  
Attachment B – AARC Facility Guidelines  
Attachment C – City of Austin Insurance Requirements