

**INTERLOCAL AGREEMENT BETWEEN
AUSTIN INDEPENDENT SCHOOL DISTRICT AND
THE CITY OF AUSTIN
REGARDING USE AND MAINTENANCE OF THE AREA SURROUNDING
AUSTIN HIGH SCHOOL**

This Interlocal Agreement (“Agreement”) is made by and between the Austin Independent School District (“AISD”) and the City of Austin, Texas, a home rule municipality and political subdivision of the State of Texas, acting by and through its duly authorized City Manager, or designee (“the City”).

WITNESSETH:

WHEREAS, AISD and the City are authorized to enter into this Agreement pursuant to the provisions of the Interlocal Cooperation Act, Texas Government Code Section 791.001 et seq.; and

WHEREAS, AISD and the City share an interest in the use and maintenance of certain areas surrounding AISD’s Austin High School, located at 1715 West Cesar Chavez St., Austin, Texas; and

WHEREAS, AISD and the City desire to enter into this Interlocal Agreement to establish use, maintenance, rights and responsibilities for each of the five areas surrounding Austin High School described herein;

NOW, THEREFORE, AISD and the City agree as follows:

**I.
GENERAL PROVISIONS**

- A. This Agreement sets out responsibilities for use and maintenance of the five areas defined in Subsection B. Attached as **EXHIBIT A** and incorporated for all purposes is a sketch delineating the five areas surrounding Austin High School that are the subject of this Agreement.
- B. Definitions:
 - (1) “Area 1” - commonly known as the rowing center, and located on property owned by AISD, subject to a hike and bike easement dedicated to the City of Austin;
 - (2) “Area 2” - commonly known as the parking lot, and located on property owned by the City;

- (3) “Area 3”- commonly known as the tennis courts and the adjacent pro shop building, and located on property owned by the City;
- (4) “Area 4” - commonly known as R.D. “Boss” Thorp baseball field and related improvements, and located on property owned by the City; and
- (5) “Area 5” - commonly known as Stephen F. Austin Drive, located on property owned by AISD.
- (6) “School Year” - means the dates that Austin High School is in session, including staff development days, planning and preparation days, and summer sessions, but excluding summer break, winter break, spring break, and other school holidays when neither staff nor students are in attendance, according to the official AISD School Calendar for the applicable School Year as approved by the AISD Board of Trustees and posted on the AISD website.

II. SCHEDULING ACTIVITIES IN AREAS 3 AND 4

Sections V and VI establish the fixed dates and times during which AISD has the sole right to use Area 3 and Area 4. AISD may use the processes in this Section to establish dates and times for the use of Areas 3 and 4 in addition to those established in Sections V and VI.

A. Semi-annual schedule of additional activities

- (1) The process in this Subsection is used to allow AISD to gain approval for the sole use of Area 3 or Area 4 for certain additional activities that AISD knows in advance will occur outside the dates and times for use by AISD expressly established in Sections V and VI.
- (2) Not later than September 15 for the first semester of the School Year and January 15 for the second semester of the School Year, AISD may submit to the City a proposed schedule of additional activities for Areas 3 and 4. The proposed schedule of additional activities must include specific dates and times of use.
- (3) The City will review the schedule and make any necessary modifications. The City agrees to use good faith efforts to accommodate AISD’s proposed schedule while acknowledging the public nature of Area 3 and Area 4. The City will notify AISD in writing of any modifications to the proposed schedule not later than 14 business days after submittal. The proposed schedule with any such modifications for which AISD receives

timely notice will thereafter be the approved schedule of additional activities.

- (4) If the City takes no action within 14 business days of receipt, the schedule of additional activities as submitted is deemed approved.
- (5) If AISD anticipates needing to use Area 3 or Area 4 during all or a portion of winter break, but does not know the exact dates and times of such use, AISD may include the dates and times, marked as “tentative” in its September 15 schedule, putting the City on notice that some of the dates and times may ultimately not be needed by AISD. For any dates and times marked “tentative”, AISD will submit to the City “final” dates and times needed not later than November 15. The City will update the schedule by substituting the tentative dates and times with the final dates and times. If AISD does not submit “final” dates, the “tentative” dates will be deemed “final” approved dates.

B. Scheduling of supplemental dates

- (1) The process in this Subsection is used to allow AISD to gain approval for the sole use of Area 3 or Area 4 for certain activities not included in the schedule of additional activities. The activities approved under this Section supplement those expressly established in Sections V and VI, and those approved in the schedule of additional activities.
- (2) Not less than ten business days before the date of an activity or activities desired to be scheduled, AISD may submit to the City a request for approval of the supplemental activity or activities. The request must include specific dates and times requested.
- (3) The City will review the request and notify AISD of its approval or disapproval not later than five business days after submittal. The City shall not unreasonably withhold or condition its approval.
- (4) If the City takes no action within five business days of receipt, the request for supplemental activities is deemed approved.

C. Notice

- (1) AISD shall send submittal of the semi-annual proposed schedule of additional activities or requests for supplemental activities under this Section by email or fax to:

City of Austin
Parks and Recreation Department
Office of the Director

Email: parks@austintexas.gov; and sara.hensley@austintexas.gov
FAX number: (512) 974-6703

- (2) The City shall send its responses to submittals or requests under this Section by email or fax to:

Austin Independent School District
Attention: Curtis E. Shaw, Director of Construction Management
Email: cshaw@austinisd.org
FAX number: (512) 480-0545

AND

Principal, Austin High School
FAX number: (512) 414-7373

III. AREA 1 (Rowing Center) RESPONSIBILITIES

- A. The City shall have the right to use or allow public use of Area 1 for a rowing and sculling concession and related activities, and to enter into agreements regarding such use and activities upon written notice to AISD. The parties acknowledge that the City entered into a third party agreement with a contractor regarding use and maintenance of a portion of Area 1 effective May 19, 2000, attached hereto as **EXHIBIT B** and incorporated for all purposes (“Third Party Agreement”). No use of Area 1 beyond the use currently allowed in the Third Party Agreement is allowed without prior written approval from AISD.
- B. The City will notify AISD not less than 30 days in advance of beginning negotiations on extension of the Third Party Agreement or negotiations on a subsequent similar agreement regarding a contractor’s use of Area 1. The City and AISD agree to pursue the inclusion of educational programs and reduced rental fees for AISD students into any such agreement. In addition, the City agrees to use reasonable efforts to amend the current Third Party Agreement as soon as is practicable to require the contractor under the Third Party Agreement to offer reduced rental fees at the Rowing Center for AISD students.
- C. The City shall be solely responsible for maintenance, utility, landscaping, and capital costs associated with serving Area 1 as long as the City is using or allowing public use of Area 1 under this Agreement.
- D. Any revenue generated from rowing or sculling concessions on Area 1 shall be the sole property of the City. If this Interlocal Agreement terminates during the term of the Third Party Agreement or subsequent similar agreement, the City shall

provide notice of termination to the contractor under the applicable provisions of the Third Party Agreement or subsequent similar agreement.

- E. Permanent improvements constructed or installed within Area 1 after the effective date of this Agreement either by the City or by the contractor must be approved in writing in advance by AISD. AISD shall not unreasonably withhold, condition, or delay its approval.
- F. Upon termination of this Agreement, AISD will not be liable to the City for the cost of improvements made to Area 1 by or on behalf of the City; permanent improvements made will remain the property of AISD.

IV.

AREA 2 (Parking Lot) RESPONSIBILITIES

- A. AISD shall have the sole right to use Area 2 during the School Year, between the hours of 8:00 a.m. and 5:00 p.m. At all other times, the City shall have the sole right to use or allow public use of Area 2.
- B. The City will perform maintenance and landscaping, and will pay utility and capital costs associated with serving Area 2, excluding parking signs, subject to reimbursement by AISD of one half of said costs under Section IX. Provided, however, any capital costs must be approved by AISD in advance, which approval will not be unreasonably withheld, conditioned, or delayed.
- C. AISD may issue parking permits for student parking within Area 2 and any revenue generated shall be the sole property of AISD. AISD has placed parking signs in Area 2 indicating that the parking spaces are reserved at certain times for students with permits. The signs shall be placed and maintained at the sole expense of AISD.

V.

AREA 3 (Tennis Courts) RESPONSIBILITIES

- A. AISD shall have the sole right to use Area 3 for physical education classes, tennis team activities, school-sponsored activities, and school-related activities during the School Year, between the hours of 8:00 a.m. and 5:00 p.m.
- B. AISD shall also have the sole right to use Area 3 for additional or supplemental activities approved or deemed approved by the City under Section II.
- C. At all other dates and times not listed in Section V A, or authorized under Section II, the City shall have the sole right to use or allow public use of Area 3.

- D. The City will perform maintenance and landscaping, and will pay utility and capital costs associated with serving Area 3, subject to reimbursement by AISD of one half of said costs under Section IX. Provided, however, any capital costs must be approved by AISD in advance, which approval will not be unreasonably withheld, conditioned, or delayed.

VI.

AREA 4 (R.D. “Boss” Thorp Baseball Field) RESPONSIBILITIES

- A. AISD shall have the sole right to use Area 4 for physical education classes, baseball team activities, school-sponsored activities, and school-related activities as follows: (i) during the School Year from 8:00 a.m. until dark, (ii) each Saturday from 8:00 a.m. until dark, from January 1 through the end of the School Year, and (iii) each Monday through Saturday during spring break from 8:00 a.m. until dark. In addition, AISD shall have the sole right to use Area 4 from 8:00 a.m. until dark for Austin High School baseball team competitions that extend beyond the School Year, such as UIL playoffs, until the Austin High School baseball team is no longer involved in the competition; provided AISD notifies the City of the dates of the competitions as soon as the dates are known to AISD, but in no event less than three days before the competition date.
- B. AISD shall have the sole right to use Area 4 for additional or supplemental activities approved or deemed approved by the City under Section II.
- C. At all other dates and times not listed in Section VI A, or authorized under Section II, the City shall have the sole right to use or allow public use of Area 4.
- D. The City shall provide notice to AISD not less than four business days in advance of authorized public use of Area 4. AISD shall provide notice to the City of any damage done to Area 4 in connection with an authorized public use not later than two business days after knowledge of the damage. AISD shall repair such damage and the reasonable costs of the repair shall be offset against reimbursement amounts due from AISD under Section IV or V.

For the purposes of this section, notice to AISD shall be sent by email or FAX to:

Austin Independent School District
Attention: Curtis E. Shaw, Director of Construction Management
Email: cshaw@austinisd.org
FAX number: (512) 480-0545

AND

Principal, Austin High School
FAX number: (512) 414-7373

For the purposes of this section, notice to the City shall be sent by email or FAX to:

City of Austin
Parks and Recreation Department
Central Parks Division
Email: parks@austintexas.gov; and sara.hensley@austintexas.gov
FAX number: (512) 974-6703

- E. AISD will perform maintenance and landscaping, and will pay utility and capital costs associated with serving Area 4 within the baseball field fence; the City will perform maintenance and landscaping, and will pay utility and capital costs associated with serving Area 4 outside of the baseball field fence.
- F. Upon termination of this Agreement, the City will not be liable to AISD for the cost of improvements made to Area 4 by or on behalf of AISD; permanent improvements made will remain the property of the City.

VII.

AREA 5 (Stephen F. Austin Drive) RESPONSIBILITIES

- A. AISD shall have the sole right to use the Austin High School-side curb of Area 5 for parking during the School Year, between the hours of 8:00 a.m. and 5:00 p.m. The remainder of Area 5 shall be open for public use at all times.
- B. AISD may issue parking permits for student parking along the Austin High School-side curb of Area 5 and any revenue generated shall be the sole property of AISD. AISD has placed parking signs on the Austin High School-side curb of Area 5 indicating that the parking spaces are reserved at certain times for students with permits. The signs shall be placed and maintained at the sole expense of AISD.
- C. The City may temporarily limit public access and parking in Area 5 if necessary to protect the public health and safety. In the case of a planned public access and parking limitation, the City will notify AISD at least two business days in advance. In the case of limitations necessitated by an emergency situation for which advance notification is not feasible, the City will notify AISD as soon as possible, but not later than four business days after the emergency limitation is imposed.
- D. The City shall be solely responsible for maintenance, utility, landscaping, and capital costs associated with serving Area 5, excluding parking signs erected by AISD under Section VII B.

**VIII.
TERM; TERMINATION**

- A. This Agreement becomes effective on the date executed by both parties and remains in effect until September 30, 2012 unless terminated earlier or extended under this Section VIII.
- B. This Agreement shall automatically renew on October 1 of each year for twenty-five (25) successive one year terms, unless terminated under Section VIII C or D.
- C. Notwithstanding anything to the contrary within this Agreement, if at any time during the term of this Agreement AISD or the City fails to provide funding for all or any part of its obligations herein for the following fiscal year, the failing party shall give notice to the other party. Upon delivery of the notice, the failing party shall no longer be liable for said unfunded obligations. Upon receipt of the notice, the non-failing party may, as its sole recourse, elect to immediately terminate this Agreement by sending written notice to the failing party. If the non-failing party does not notify the failing party of its election to terminate this Agreement within 30 days of receipt of notice from the failing party, this Agreement shall continue in full force and effect, except that the failing party will thereafter have no responsibility for the unfunded obligations.
- D. If a party defaults in the performance of any of the terms or conditions of this Agreement, other than by failure to fund, the defaulting party shall have 60 days after receipt of written notice of the default within which to cure the default. If the default is not cured within such period of time, then the non-defaulting party shall have the right without further notice to terminate this Agreement.
- E. Upon termination, AISD shall have sole use and sole responsibility for maintenance, utility, landscaping, and capital costs for Areas 1 and 5; and the City shall have sole use and sole responsibility for maintenance, utility, landscaping, and capital costs for Areas 2, 3, and 4.

**IX.
PAYMENT FOR SERVICES**

- A. To the extent associated with servicing Areas 2 and 3, maintenance, utility, and landscaping costs, and capital costs approved under Section IV B and V D shall be shared equally by AISD and the City.
- B. The City will invoice AISD on a quarterly basis in January, April, July, and October for one-half of all maintenance and landscaping services provided by the City and all utility and approved capital costs incurred by the City for Areas 2 and

3 during the previous quarter. AISD will pay the City for services performed and costs incurred no later than 45 days after receipt of the invoice. The invoice shall be sent to:

Austin Independent School District
1111 West 6th St. Suite B-300
Austin, TX 78703
Attention: Curtis E. Shaw, Director of Construction Management

- C. Remittance will be made payable to the City of Austin and will be sent to:

City of Austin
Parks & Recreation Department
200 South Lamar
Austin, TX 78704
Attention: Contract Manager

- D. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

X. MISCELLANEOUS

- A. Severability. If any section, subsection, sentence, clause, or phrase of this Agreement is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of the Agreement shall not be affected thereby. It is the intent of the parties signing this Agreement that no portion of it, or provision or regulation contained in it shall become inoperative or fail by reason of unconstitutionality or invalidity of any other section, subsection, sentence, clause, phrase, provision, or regulation of this Agreement
- B. Law and Venue. This Agreement shall be governed by the laws of the State of Texas. The obligations under this Agreement are performable in Travis County, Texas. It is expressly understood that any lawsuit or litigation arising out of or relating to this contract will take place in Travis County, Texas.
- C. Alteration, Amendment, or Modification. This Agreement may not be altered, amended, or modified except in writing, approved by AISD and the City Manager of the City of Austin, or designee.
- D. Entire Agreement. This Agreement constitutes the entire agreement between the City and AISD. No other agreement, statement or promise relating to the subject matter of this Agreement which is not contained in this Agreement is valid or binding
- E. Notice. Notices to either party shall be in writing, and may be either hand delivered or sent by certified or registered mail, postage paid, return receipt

requested unless otherwise provided in this Agreement. If sent to the parties at the addresses designated herein, notice shall be deemed effective upon receipt in the case of hand deliver and three days after deposit in the U.S. Mail in case of mailing. The address of the City shall be:

City of Austin
Parks & Recreation Department
200 South Lamar
Austin, TX 78704
Attention: Contract Manager

The address of AISD shall be:

Austin Independent School District
1111 West 6th St., Suite B-300
Austin, TX 78703
Attention: Curtis E. Shaw, Director of Construction Management

WHEREFORE, premises considered, this Interlocal Agreement is executed to be effective as of the date of the last party to sign.

CITY OF AUSTIN

AUSTIN INDEPENDENT SCHOOL DISTRICT

By: _____
Bert Lumbreras,
Assistant City Manager

By: _____
Mark J. Williams,
President, Board of Trustees

Date: _____

Date: _____

APPROVED AS TO FORM:

City Law Department

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**EXHIBIT A
Sketch Delineating Areas 1-5**

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**EXHIBIT B
Third Party Agreement Regarding Area 1**